



# Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

## MERRIMACK CONSERVATION COMMISSION

MAY 18, 2015

### MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, May 18, 2015 at 6:31 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 (arrived at 6:45 p.m.)  
Councilor Jody Vaillancourt

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

Also in Attendance: Lt. Matt Tarleton, Merrimack Police Department  
Mark McLeod, H.L. Turner Group, Inc.  
Robert Carter, H.L. Turner Group, Inc.  
Ken Clinton, Meridian Land Services  
Nathan Chamberlin, Fieldstone Land Consultants

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PUBLIC COMMENT - None

### APPOINTMENTS

#### **1. Lt. Matt Tarleton - Funding for Police Patrols at Grater Woods**

The Commission will meet with Lt. Tarleton to have a working session to initiate controls by the Merrimack Police Department at Grater Woods.

Lt. Tarleton asked, and was informed the Commission would like patrols to be conducted on weekend afternoons. Vice Chairman Caron questioned if patrols would be conducted by a single officer, group of officers or if it would come down to whoever is on duty on a particular weekend. Lt. Tarleton responded it will likely be a small group of officers. He noted there would be additional OHRV training for officers to become certified, and acknowledged the desire of the Commission to mix in patrols on mountain bikes. He suggested there would be 10 officers between those on ATVs and those on bicycles.

Lt. Tarleton spoke of concerns expressed regarding some of the areas being fragile due to loose earth, etc. He expressed the desire for the opportunity to conduct a site walk with a member of the Commission so that the sensitive areas could be identified. He could then make the other officers aware of those areas. He stated his opinion the Commission will get more bang for the buck with patrols on 4-wheelers, and suggested that be the starting point. Motorized patrols will provide for coverage over a greater area in a shorter time period, which would allow for checking particular areas several times during a single patrol. He commented people are less inclined to take off on you when you are on a motorized patrol.

Commissioner Boisvert stated concern motorized patrols would be limited to the yellow trails. The blue trails cannot be patrolled on motorized vehicles. Lt. Tarleton commented he had believed the property would be open for motorized patrols. Chairman Tenhave noted on some of the non-motorized trails it is simply not possible to get ATVs through. Vice Chairman Caron remarked less than 50% of the trails are able to be accessed by an ATV. Lt. Tarleton commented he believed those to be the main problem areas. Commissioner Boisvert stated the problem is with motorized vehicles on non-motorized trails or cutting their own trails. Councilor Vaillancourt

added individuals are utilizing two-wheeled dirt bikes on non-motorized trails. Although the trails are not passable with ATVs, they are with dirt bikes. She stated that to be one of the main concerns. Lt. Tarleton responded, in that instance, it may be that a mountain bike is the way to go.

***The consensus of the Commission was for Vice Chairman Caron and Lt. Tarleton to conduct a site walk, and identify the proper strategy to be utilized for patrols.***

When asked about the informational material that will be available to be handed out to users of the property, Lt. Tarleton stated his belief what has been produced will be helpful. He touched upon discussion at the last meeting around providing the Police Department with a map that included additional information not printed on the public maps. Copies will be provided and Vice Chairman Caron will review it with him.

Chairman Tenhave stated the desire for patrols to be conducted 4 hours/week. Lt. Tarleton noted he spoke with the Chief, and the 4 hour minimum has been waived, e.g., the Commission will be billed for the actual number of hours patrols are conducted. He provided the example of weather limiting the patrol on a particular day.

Chairman Tenhave spoke of the Activity Sheet created, and the desire for one to be completed for each patrol. It was noted time needed for loading and unloading as well as maintenance of the equipment (cleaning) and completion of the Activity Sheet would be included in the 4-hour patrol.

Chairman Tenhave stated the hope is to be able to utilize the information gathered through the Activity Sheets to identify the number of contacts, determine if the educational aspect is effective, etc. The Activity Sheets will be forwarded to the Commission via email to Vice Chairman Caron.

***Lt. Tarleton will attend the Commission's second meeting in August to participate in a discussion of progress.***

Commissioner Glenn questioned if names of individuals would be known to the officers as a means of identifying whether there are repeat offenders. Lt. Tarleton stated the officers would track repeat offenders. He noted part of the educational piece is to provide warnings for trespass as a means of tracking repeat offenders.

Chairman Tenhave informed the Commission he spoke with Matt Shevenell, Business Administrator, School District. He is supportive of the idea and is aware there will be ATV and other patrols on their property.

#### STATUTORY/ADVISORY BUSINESS

##### **1. Dredge and Fill Permit for a Harris Pond Dam Project**

Review for comments to NH DES of a Dredge and Fill Permit for a Dam spillway rehabilitation project, Tax Map 1D Lot 001-01, owned by Pennichuck Water Works, Inc.

Mr. Mark McLeod, H.L. Turner Group, Inc., informed the Commission the project consists of renovations and improvements to the Harris Pond Dam. The project was being presented in advance of submission of the NH DES Wetlands Application. Harris Pond is a Prime Wetland, which required the submission of a Standard Dredge & Fill Application.

Harris Pond is currently equipped with a low-level outlet, which is in the gatehouse. Mr. McLeod pinpointed the location on the map provided (dashed line that crosses through the gatehouse).

Mr. Robert Carter, H.L. Turner Group, Inc., stated it is a timber gate over a 5' diameter penstock. He pointed to the area of the actuators, which he described as fairly antiquated. The theory is if they were able to open the gate, given the age of the actuators, they would not be able to close it. Harris Pond is the primary water supply for the City of Nashua and the vast majority of the area around here. If they can't keep the water in, they can't make water for the entire community.

The idea is to go upstream of the spillway, construct a cofferdam with the top of the cofferdam essentially being the permanent concrete crest of the Harris Pond Spillway and dewater the area between the cofferdam and the spillway so that they can work on replacing the low-level outlet gate. They will demolish the old gatehouse, remove the old actuators and construct a new intake structure including a trash rack, slidegate equipment and stoplog bays. Once the new gate is in place, they will then pull the old gate. What that will effectively do is provide a bit of a safety factor because at no point, if there is ever a problem with the cofferdam, will water be able to flow uncontrolled out of Harris Pond into Supply Pond.

While they have the area dewatered (upstream of the stone masonry arch spillway), they will take all of the old granite block masonry joints and concrete work and repoint it. On the crest of the spillway are two 16" culverts with knife gates on them. What those two knife gates do is allow some control of the impoundment elevation so they can control the head pressure they have in producing water. The intent had been to put in a pneumatic crest gate, but because they want to do the project this year and the vendors for pneumatic crest gates cannot fill the order this year, it will be a different, more conventional gate. When exact information is known, the application will be revised. It is basically just greater crest control for operational control of the impoundment.

During the construction process (between August and December), with the cofferdam constructed at the permanent concrete elevation, water impounded by the cofferdam is going to be about 3' below that elevation, which is consistent with seasonal fluctuations in Harris Pond as it is. When the work is complete; gates installed, they will remove the cofferdam and things will go back to normal.

All impacts are temporary and for the purpose of access. From the top of the bank, on the dam, down to the area to be dewatered, and then the area of dewatering itself counts as an impact because it is a staging area.

When asked, Mr. Carter stated the temporary dam would be constructed of structural steel because of the amount of water it will be impounding. Commissioner Perry questioned if it would be pounded into the base or if it would sit on the bottom. Mr. Carter responded that depends on what they ultimately do; you can't put a sheet pile cofferdam when you have ledge. It may end up being a hybrid of sorts. The area of impact is 9,540 sq. ft. When asked, he stated it is believed there is sufficient access to maneuver vehicles in and around using the existing service road.

It was noted the project has been pretty well thought out in terms of construction sequencing, which is why the new gate is being installed before the old one is removed and any inflows to the pond will be handled via siphon tubes that can be suspended on the upstream end. The impoundment will increase by 2' in the 100-year event, which will be 1' below the proposed top of cofferdam. They will use two to three 6" siphons to maintain and lower the water level as needed.

Councilor Vaillancourt questioned the impetus for replacement of the low-level outlet at this time. Mr. Carter stated his belief the timing is simply a matter of priorities. The Dam Bureau pushes things that need to be done, but if you put out an agenda/schedule of when you will address them they will back off. This one was on the agenda to be done, and this is when it was scheduled to be done.

Commissioner Glenn questioned, if all approvals, etc. aren't acquired by August, would the project wait until the following August to be done. Mr. Carter stated the August - December timeframe is generous for the work needs to be done. Commissioner Glenn commented as long as it is done by January for the sake of the Eagles. Mr. Carter remarked if there is a hiccup, it would be postponed. When asked, Mr. Carter stated the electric actuators are for the low-level gate not the crest gate.

When asked about the timing of the permit application, Mr. Carter stated it would be submitted once any recommendations and/or requirements from Merrimack and Nashua are incorporated into the final plans. He reiterated his belief the plan will move towards a conventional, mechanically actuated gate rather than hydraulic.

***Chairman Tenhave stated he would draft a letter to NH DES stating the Commission has reviewed the project, noting where meeting minutes are available for review, and providing any comments.***

***There were no specific comments from the Commission.***

## **2. Old Blood Properties, LLC. and Joseph K. and Mary El Kareh (co-applicants/co-owners)**

Review for recommendation to the Planning Board of an application for a cluster subdivision proposing 72 cluster residential lots and 4 open space lots located at Old Blood Road in the R-1 (Residential) District. Tax Map 5B, Lots 001-01, 002, 003, 003-01, 005, 006, 007, 008, 009 and 231. Also, review for comments to NH DES of a Dredge and Fill permit for impacts associated with this cluster subdivision.

*Chairman Tenhave stepped down and Vice Chairman Caron presided.*

*Chairman Tenhave recused himself from the discussion.*

Mr. Ken Clinton, Meridian Land Services, commented on having been before the Commission on several occasions over the last year or so as the project has evolved. He stated his belief this would be the last time relative to this project. He stated his understanding there are two parts; any final comments relative to the subdivision itself and any comments or questions the Commission may have on the wetlands permit.

Mr. Clinton spoke to the large size of the plan set and the comprehensive nature of the wetlands permit. He questioned if the Commission had any questions.

With regard to the sub-division, Mr. Clinton stated, since last before the Commission (November), the overall approach, number of lots, size, configuration of lots, and open space have not changed. The result of the last meeting was a letter penned by Chairman Tenhave relative to the decision, in principal, it would be acceptable for the Commission to receive a Conservation Easement on two of the open space parcels with two conditions, which are identified in the wetlands permit; that the language was agreeable to the Conservation Commission and subsequently the Town Council. That was significant to satisfy DES mitigation requirements as the project will have impacts greater than 10,000 sq. ft.

The overall gross area of the subdivision is 193 acres. There are four open space parcels totaling 122.6 acres (63% of the gross where 50% is required). The parcels the Commission would accept an easement for are known as 5B/Lot 2 and 5B/Lot 5, and are the larger of the four (101.5 acres combined). The other two open space parcels; one in the middle of the subdivision loop known as 5B/Lot 7 (17.1 acres) and a small open space lot to the east of the project, 5B/Lot 8 (4 acres and bounded almost exclusively by roads and right-of-ways). The two lots not having conservation easements would be retained as open space lots with all of the protections of the open space covenants and restrictions, just not that added extra level of oversight and enforcement that the Commission could provide. They would look to mimic the same language as that of the Commission easement that is on the school property.

They continue to work through peer review comments from the CLD along with comments from the PWD, Wastewater, and several miscellaneous staff department comments. It is hoped conditional approval will be requested at the next meeting on June 2<sup>nd</sup>. It is believed everything will be lined up for that to occur.

Vice Chairman Caron commented 5B/Lot 2 is comprised of 81.6 acres, which was the amount of acreage discussed in previous meetings. However, 5B/Lot 5 (19.9 acres) was in the ballpark of 23.4 acres at one time. Mr. Clinton stated that may have been the case early on. He does not recall going through any lot line revisions since the November meeting. He remarked what was being presented was the final application, and anything prior was in the design review phase.

Councilor Vaillancourt noted she was not present for the prior meetings, but has viewed a lot of the meetings where this particular project was discussed. She questioned ownership of the parcel in the center of the subdivision (5B/Lot 7). Mr. Clinton responded there are two options; the parcel could be conveyed in fee to the Town or it could be owned in common by the homeowners. When asked where that determination would be made, Mr. Clinton remarked there is no specific requirement in the zoning ordinance that allows for an open space development so it is up to the Applicant. However, the Planning Board could have further input into that. He stated his belief, if a conditional approval is issued at the Planning Board meeting, he would think that issue would be part of it.

Relative to the wetlands permit, Mr. Clinton stated they have recently revised the plan according to the various comments and input received. Last Friday the permit was brought up to the State, and is currently in the hands of DES.

There are both onsite subdivision improvements as well as some adjacent offsite improvements to Town roads. Old Blood Road itself has several culverts that will be replaced. Two of the culverts have associated wetland impacts. Culvert C-2 has an existing 12" CMP, which will be replaced resulting in 20 sq. ft. of impact (permanent). Mr. Clinton noted in addition to replacing culverts, the project is required to widen the travel surface on that section of Old Blood Road. The same is true for the next culvert (C-4). That is also an existing 12" culvert, and due more to the widening of the gravel surface and less with the culvert itself, there is 770 sq. ft. of impact (permanent). When asked, Mr. Clinton stated water flow would be south to north. Vice Chairman Caron questioned if the flow would head towards the 81-acre parcel. Mr. Clinton responded in this particular case (C-4), the flow is heading towards the house on Lot 90-3 as it is currently. Flow directions are not being changed and nothing is being affected with regard to volume. They are merely replacing the culvert in order to upgrade the road surface. When asked specifically, Mr. Clinton stated flow is headed away from the 81-acre parcel. He added it bypasses it; runs almost south to north, parallel to but east of the project.

The third offsite wetland impact is at the intersection with the middle school, which was the subject of a long protracted discussion between the Planning Board and the School District. A resolution of the alignment was reached. There are wetlands that drain parallel to the middle school driveway from west to east and get intersected by Old Blood Road, which is a Class 6 road in this section. The flow used to cross Old Blood Road,

apparently without benefit of a culvert. It would simply overflow that old section of road and then carry on into a lot on the corner of the Merrymeeting subdivision.

At some point, the flow pattern was changed; something effectively stopped up the flow across the road, and the flow then went down the road and ponded up in the old gravel surface of Old Blood Road itself, and became a long-standing seasonal pond due to the limitation of an outlet. As a Town road and with the project looking to make the secondary connection to the north, they will correct that flow and then improve the Town road to a passable Class 5 road. To do so they have a fill situation of 7,120 sq. ft. Currently there is no culvert there. In order to take in all of the design considerations from PWD standards, the culvert is actually set out of the wetlands impact to the north closer to the intersection with the school, and is a bypass culvert. Any flow that does come down from the hill on the east will bump into the road again and travel in a swale outside of the wetlands to a culvert and then bypass.

That is necessary in part because the existing cul-de-sac of Madeline Bennett, the pavement is at such an elevation that the standards for separate of the finished pavement over a culvert pipe is too shallow at the location of the wetlands resulting in the need to have it offset. This will also help a couple of the residents at the corner of Merrymeeting who have said their yards are fairly wet during certain periods in the spring.

Commissioner Perry questioned if the location where the road now enters the school driveway is right at the cul-de-sac, and was told it is. He further questioned if the cul-de-sac would go away, and was told it would.

Commissioner Boisvert questioned if the wetland crossing areas were intended for wildlife. Mr. Clinton responded aside from the two minor culverts to the south on Old Blood Road, there are three more significant, which he wished to draw attention to for discussion purposes. Wetland crossing areas identify areas where wetlands have to be crossed in the road complex, either internally (2 internal crossings) or externally/offsite of which there are three, which are improvements to existing Town right-of-ways.

Commissioner Perry questioned if the bypass culvert would be large enough for critters, and was told it would be. Mr. Clinton commented, as a function of the wetlands permit, when providing to NH DES for their review, they also provide a copy to NH Fish & Game. Their focus addresses any endangered species. The project is not too far from areas that have been known to have Blandings turtles and somewhat close to a location that has Spotted turtle. When NH Fish & Game reviews the plans, if it is felt a culvert should be upsized to give a bit more opportunity, those advisory comments will be sent to the DES Wetlands Bureau, the Applicant will get a copy, and discussion will ensue.

The next crossing (#2) is internal of the subdivision. This location, given the topographic conditions, nature of the wetlands, and the vicinity of wetlands to some extremely valuable wetlands habitat and adjacent vernal pool, has a 4' x 5' box culvert proposed that would be buried/inset into the ground 2'. That is environmentally friendly for turtles in particular. This one, given its location is already well sized (oversized from a drainage calculation standpoint) to accommodate wildlife. That crossing is 2,865 sq. ft.

Councilor Vaillancourt commented it does not appear there will be a structure/home there. Mr. Clinton remarked when they talked about the lot locations with the Planning Board and the configuration of the open space in the middle, the Planning Board expressed that they did not want the open space in the middle to be "land locked" if you will. They wanted some wildlife corridors. They have accommodated that with several breaks in that loop. Given the combination of the topography, the wetlands, drainage needs, and the desire of the Planning Board, this location worked out to be a natural wildlife corridor. There are no houses immediately adjacent to this crossing.

Vice Chairman Caron noted the map shows 5B/Lot 7 open space has within it the detention basin and the dashed line around it with lots 46 and 47 on either side. He questioned if that was, at one time, a lot, and a decision reached to use the entire lot. Mr. Clinton responded not necessarily. He explained further in the bigger picture, the density of the subdivision was calculated by the previous consultant. The number of lots was set. When you look at the lay of the land and seeking to protect open space and have lots placed in suitable building areas without causing too much disturbance with the topography, road grading, and drainage considerations, he does not recall there was an extra lot in there, but they don't technically have an extra lot to put in. When discussing some of the open space configuration with the Planning Board and discussing wildlife corridors, that was identified as a logical corridor. Vice Chairman Caron asked for clarification the 5B/Lot 7 detention basin is actually part of the square footage, and was told it is an easement within that open space.

Wetland crossing #1 is at the entrance to the subdivision from the existing Old Blood Road heading from the south. The location is at the same crossing location as the old Class 6 road that had been discontinued onsite.

This was an existing crossing. The wetland to the south of this existing crossing is identified as a vernal pool, and has some level of species in it. It did not a couple of years ago, but did last year. The location for the crossing is one that the previous consultant had determined through the previous work with the Planning Board. Due to its previous crossing and previous work from the prior consultant the crossing was effectively set in stone as the project was received. They have moved forward, had a pre-application meeting with Frank Richardson at DES on this, talked about the impacts of that adjacent vernal pool, which once again has been sporadic, and ultimately, given the overall protection of the open space/amount of acreage onsite and the attempts and efforts to minimize impacts, DES was satisfied that was a reasonable wetland impact to make.

Currently, because of the nature of the topography, from an engineering standpoint, it only needs 1 pipe at 24" to convey the water through and across the wetland crossing. However, the project consists of 2 pipes. There are two 24" pipes side by side, which again help with the ability for wildlife to pass. When asked if there is a reason to not want to use a square box in there, Mr. Clinton responded, at this point, they always balance the engineering need with the Town's desire to maintain, and the environmental need. Where the engineering calculations might suggest a 24" they have doubled that. Commissioner Perry commented he was looking at it in terms of passage, e.g., round bottom versus flat bottom. Mr. Clinton remarked in this particular case the square footage is 7,715 sq. ft.

With this particular crossing and the desire from PWD to have some buffer from the exterior of the easement rights, they wanted 5' of maintenance, which is going to require them to have a retaining wall in the vicinity of 6' high in this location. It will be a fairly substantial crossing, which is simply a result of the design requirements the Town has put upon the project.

Vice Chairman Caron questioned the distance from the roadway to the retaining wall, and was informed the request was 5' from the edge of the right-of-way limits. Determining the distance from the edge of pavement would depend on sidewalks and grass strips between sidewalks. If the pavement is 24' wide there might be 6-8' on either side, then it could be 36 or more feet of retaining wall box. When asked, he stated there will be a curb on top of the retaining wall. Vice Chairman Caron commented he was contemplating plowing and what would end up over the wall. Mr. Clinton noted they had initially asked for a waiver to eliminate the retaining walls, but that was not supported by the Town. The pipes will be surface (not buried).

Mr. Clinton commented the right-of-way in this culvert is not much different from the right-of-way near the Madeline Bennett cul-de-sac where there is an existing roadbed. There would be some seasonal ponding in the vernal pool area. Once that level rose enough it would flow, but not in a single stream, not in a rivulet that would then concentrate and channel in one location, but almost like a level spreader that it would then come over and sheetflow off the back. Commissioner Perry stated he would like to minimize the scenario where 15 years from now it would drop on either side where it will strand something that can't get up to the pipe to cross. Mr. Clinton remarked as soon as it is a retaining wall that is even 2' high, turtles will not scale up a vertical face. When asked, Mr. Clinton stated the rock wall would be removed. The invert in and out would be protruding from the face of the retaining wall.

Overall, there is a cumulative wetland impact of 18,490 sq. ft. Mr. Clinton commented looking at the overall layout of the subdivision and the protection of the open spaces, he believes it a reasonable number given the amount of lineal footage of road and the number of lots. Every effort has been made to minimize the impact. The plan was supported by the pre-application meeting with DES. The plan is the result of over a year's worth of planning and discussions with the Commission and a variety of Town departments, staff, and the Planning Board.

Vice Chairman Caron noted the Commission was not in receipt of a landscaping sheet for the residential lots. Mr. Clinton stated it has been marked as something to discuss with the Planning Board at the next meeting or with staff prior to that. There is a reference in the ordinance relative to landscaping of the individual lots, but not necessarily for crossing locations.

Vice Chairman Caron stated the Commission's preference for low-phosphate, slow release nitrogen fertilizer to be relayed to homeowners via Deed language, etc. Mr. Clinton stated he brought that up during the last few applications before the Planning Board as it has been a reoccurring theme from the Commission, and the Planning Board has declined to have that as a condition of any of the approvals. He reiterated he has shared the comment and they are aware of it.

Mr. Clinton suggested the Commission could write to or discuss the issue with the Planning Board. He added, as a consultant representing an applicant, he does not believe such language should be placed in the Deed. He does believe it would be smart to have the builder "as they sell homes" pass along information. Although he understands the comment, he is not sure how it would be enforced.

*Vice Chairman Caron stepped down and Chairman Tenhave presided.*

Chairman Tenhave questioned if there were general comments to forward to the Planning Board.

Commissioner Perry stated the desire to pass along the expectation that the builder use no phosphate, slow release nitrogen fertilizer. He commented it is a very wet area and everything flows down to Merrymeeting and into the back of Mitchell Woods where issues are already occurring. Vice Chairman Caron commented on wetland crossing #1 and the likelihood grass will be planted there. If that is being done by the contractor the recommendation would apply. Mr. Clinton remarked they generally have a wetland seed mix specified in the details for that type of work.

Councilor Vaillancourt spoke of Vice Chairman Caron's concerns regarding the retaining wall, and Commissioner Perry's concerns regarding the size of the pipe, and questioned if it would be appropriate to comment on the affects it might have on wildlife crossing. Commissioner Perry stated he likes the flat bottom box and believes it would be a benefit.

***The recommendations forwarded to the Planning Board will include the use of no phosphate, slow-release nitrogen fertilizer, use of wetland seed mix at all wetland crossings (if there is any adjacent disturbed area), and use of a flat box culvert at the wetland identified on Sheet P3, 14 of 27 on the subdivision plan set (C-6).***

***The comment regarding the box culvert on wetland crossing C-6 (sheet Y-3) will be forwarded to NH DES.***

### **3. John J. Flatley Co. (applicant/owner)**

Review for recommendation to the Planning Board of an application for a multi-family residential project located at 645 D.W. Highway Tax Map 6E Lot 003-01.

Mr. Nathan Chamberlin, Fieldstone Land Consultants, remarked the Flatley Co. spent several months before the Planning Board last fall discussing a mixed-use development for this parcel. He identified the lots owned by Flatley that would be included in the mixed used development. He identified a parcel that had been slated for F.W. Webb, and noted, due to site constraints, they have decided to abandon the project and move elsewhere. Mr. Chamberlin pointed to a map he displayed to identify the portion of the project being worked on currently, which involves a multi-family residential development; 5 buildings, 48 units per building for a total of 240 units. There is a clubhouse in the front of the property with a swimming pool and tennis courts. Dumping Brook does traverse the property, and the Merrimack River is down below, separated by railroad tracks.

He pointed to the area where Dumping Brook traverses the property, and noted he walked the area and noted quite a drop-off down to the water (huge ravine). There is a trail that comes down and a bluff overlooking the river which includes a sandbar that is visited by residents.

The Town requires construction of a sidewalk across the frontage of the property. The Town has agreed to allow them to come down into the site and put a sidewalk across the field. Mr. Chamberlin pointed to the area of existing gravel roads and identified where a loop trail is being proposed.

Garages are being proposed (5). Each will have 10 spaces (including a handicap bay). The buildings are higher end apartment buildings that are four stories high. Flatley is building them right now over in Nashua, and are renting them as fast as they can put them up. He noted the Town has pretty stringent requirements for parking (more than is typically needed for this type of use). Mr. Chamberlin commented, when going through the conditional use part of the process, a good many neighbors stated opposition to the project. Efforts were made to maintain as much green space between neighbors and the buildings and parking as possible.

To meet the parking demand, the plan includes 47 future spaces. There is the need to show they can be placed on the property, which has been done. He noted a swale along the hillside of the parking that directs runoff to either side. There are not quite enough parking spaces to meet the requirement on the area where paving is being done, but there is slightly more than is needed when taking into account the spaces planned for the future need.

Mr. Chamberlin pointed to an area of disturbance that was re-graded. The hillside is kind of a till, but once you get to the lower reaches it is all deep sand. That is the area where stormwater will be collected. The top front half of the parcel drains to a stormwater management area, and the remainder of the parcel is collected and directed down to another stormwater area. Mr. Chamberlin identified the area of the 250' Shoreland protection line noting from there they grade up approx. 4' to the top of berm and then back down perhaps 6' (not a very deep basin). The basin is larger than what is needed. A good deal of runoff is received from adjacent properties. He noted the

area of an existing swale and culvert, which would be removed as part of the project. The proposed drainage system would take over.

There is a 40' building setback from wetlands and a 25' wetland buffer. He noted an area of the plan that identifies a location where the 25' buffer is encroached upon; however, noted the driveway is a permitted use. There is also a swale alongside of the parking that is within the buffer, but that is to keep the runoff coming off the parking lot out of the buffer and direct it into the stormwater system.

Mr. Chamberlin stated they met with the Lower Merrimack River Advisory Committee. At that time, all of the drainage had not been worked out. The Committee wanted the area in the middle to be a rain garden. However, grading is not conducive to that. There is really nothing left over once you grade in to get some drainage and get all of the drainage to pitch down to the location. They did put some rain gardens in another area (very shallow flat area). They are basically just mitigating the water that is coming onto the site from other properties.

Chairman Tenhave questioned if the proposed trails would impact the buffers, and was told, for the most part, they would stay out of the buffers. Mr. Chamberlin noted an area where the buffer will be crossed. He spoke of existing trails in the area and noted an existing ATV bridge, which would be upgraded. Chairman Tenhave stated there are strict rules that would have to be followed while putting a bridge across there, and suggested NH DES would likely be involved with that discussion.

When asked, Mr. Chamberlin responded it would be like a stone dust trail. He added it has all been accounted for in the drainage calculation. The idea is to keep it segregated from the parking. The area seemed to be an obvious area for a trail. He noted the crossing is at the narrowest point.

Mr. Chamberlin spoke of runoff coming down off the subdivision and into the wetland. Currently the swale comes down in the area of the riprap, which is where the existing culvert is located. It breaks out of where it is backed up by what looks to be logs, comes into the swale and out into the brook. They do not wish to put runoff that is coming in offsite into their drainage system and treat it. They do not feel as though they should have to as it is already there and being treated through the wetland. They are just piping it right through to the same location it is currently going, and will be putting in a plunge pool/hole and then a level spreader, which is more than what it has, so that it could then continue to feed the brook in the same location it currently is.

Vice Chairman Caron questioned what the slope is like in the area where they are proposing the level spreader down to the brook. Mr. Chamberlin stated the slope is steep, and reiterated it is going down through there now. The point is you will let it build up and then go over the berm. It will be designed to DES standards.

Commissioner Perry asked for clarification it would drop on the back side of the berm, fill up, and flow over, and was told that is correct. It is an approx. 30' long berm. It will be level; not a concentrated flow. When asked, he stated the water would be a few feet deep before flowing over.

Commissioner Boisvert questioned plans for snow management noting the number of parking spaces. Mr. Chamberlin remarked the snow storage areas were not defined on the plan, but there is ample green space around the perimeter to store snow. He commented the issue came up at the Lower Merrimack River Advisory Committee meeting, and the areas will be added to the final plans.

When asked if there would be any water/oil separation in the drains, etc. Mr. Chamberlin stated the catch basins will have hoods on them (gas/oil separators). He pointed out the forebays, which are the sediment trap, and infiltration basins.

Because the project is within the Wellhead Protection District they will work with Merrimack Village District (MVD) to develop a plan for low-phosphate fertilizers and deicing materials that meet their requirements, which is no calcium chloride. He reiterated they will work with MVD and come up with a stringent plan for fertilizing and deicing.

Commissioner Glenn questioned if the project required a change to zoning, and was told it did not. It is an industrial zone, and the project is a permitted use through the Conditional Use Permit process. As part of the Conditional Use Permit they had a lot of commercial activity on the other parcels. What was being discussed was the residential segment. One of the conditions of the Conditional Use Permit was that they could not build all five buildings until they had some kind of either industrial or commercial component. They can't build building #5 until they have some kind of commercial component.

When asked if there would be any commercial addition to 6E Lot 003-01, Mr. Chamberlin responded the plan approved by the Conditional Use Permit included a lot line. If the parcel were subdivided and the residential area



broken off, there could be an additional use. The parcel is approx. 74 acres, and the current proposal only utilizes about 23 acres.

Chairman Tenhave stated his preference not to construct the proposed trail stating he does not see the benefit. Commissioner Perry commented he likes the concept of the trail; however, does not like it going through the wetland. Chairman Tenhave remarked he has no issue with the trail in the east side, but simply trying to traverse around the parking lot when you could just walk through it; he does not see the benefit. Vice Chairman Caron remarked if the bridge was to be permitted by NH DES, it would improve upon what is currently there, which appears to be Creosote soaked poles probably in the water. Whatever DES would recommend over that area would be much better than what is there.

Councilor Vaillancourt questioned if the bridge would be removed if the trail were not constructed. Mr. Chamberlin responded he could not see why they would remove it. Councilor Vaillancourt commented putting down stone dust, to her, is like building a mini road. In theory, it is a nice idea, but she would like to see more definitive plans before agreeing to something like that. Mr. Chamberlin stated other options could be explored for construction materials. Councilor Vaillancourt stated concern if the bridge were removed people would be going through the water. Chairman Tenhave stated his belief, if the trail were not constructed residents would not use the area. Those who are currently using the area will no longer do so once construction begins (would not go to the wetland that is in the middle of the parking lot).

When asked to identify where snow would be stored, Mr. Chamberlin stated it would be pretty much just around the perimeter of pavement. If necessary, the green space would be utilized. Chairman Tenhave questioned the elevation between the tennis courts and the most eastern parking lot. Mr. Chamberlin responded approx. 30'.

Chairman Tenhave suggested there may not be the need for de-icing compounds, particularly given the proximity to the river, streams, etc. He questioned whether salt should be allowed in the Wellhead Protection District. He stated his recommendation would be that they do not utilize salt or deicing compounds. Mr. Chamberlin remarked there are non-sodium types of deicing. He stated it to be a safety issue. Commissioner Perry agreed with the restriction noting the project is within the Wellhead Protection District and located right next to the river. Chairman Tenhave stated sand could address the safety concern.

Commissioner Perry stated the desire for all trees, bushes, and shrubs to be native species. Chairman Tenhave noted contradicting comments within the plan regarding fertilizer. He commented, as a general rule, the Commission requests, before the use of fertilizer is considered that soils be tested to determine whether or not fertilizers are necessary, and its preference, when fertilizer is to be used, that it be low-phosphate, slow release nitrogen fertilizer.

Vice Chairman commented Note #19 states in part: "Dust control with water and/or Calcium Chloride".

Chairman Tenhave questioned if all roof runoff is captured and directed into a stormwater treatment area. Mr. Chamberlin responded for the most part, noting there are a few areas that are not. He stated that could be looked into. When asked, he stated it sheetflows into the green space. There is basically a ridgeline down the buildings (runs down middle). One side goes into the drainage system and the other into the greenspace. Chairman Tenhave noted the greenspace leads into the brook. He wished to understand if there would be any treatment or capture. Mr. Chamberlin remarked it is roof runoff so it is considered clean. He added there is a substantial buffer between the building and the brook. If there were any pollutants they would be treated that way. When asked, he stated there would be a drop edge.

Commissioner Glenn noted Sheet #25 refers to a hay bale area, which should be amended to state straw bale.

***The consensus reached was that the proposed trail that would involve reconstruction of an existing bridge over a wetland not be approved as part of the plan, that no de-icing compounds of any sort be utilized, test the soil to determine if fertilizer is necessary, and if determined necessary, low-phosphate, slow release nitrogen fertilizer be utilized, ensure landscaping plan consists of native species only, remove the reference to use of salt for dust control, and replace all reference to hay bale with straw bale.***

## OLD BUSINESS

### **1. NED Pipeline**

Commission to have a general discussion on the NED project and any immediate actions it may wish to take. Particular items to be covered include initial thoughts on questions to be raised during scoping meeting(s) with FERC.

Councilor Vaillancourt stated, at the May 14<sup>th</sup> meeting of the Town Council, it was announced the Council will not be bringing forward a proposed alternate route through Merrimack. Legal counsel advised against it. The Council also discussed the map identifying sensitive areas created by the Town of Amherst, and determined the Council would not do that immediately. Something like that may be put together by Town employees in the future.

Councilor Vaillancourt noted she had requested the Commission be provided a copy of the agreement with Kinder Morgan regarding surveying and the updated revisions. Chairman Tenhave stated he received it earlier in the day, but had not yet had the opportunity to review it.

Councilor Vaillancourt stated the Federal Energy Regulatory Commission (FERC) submitted a large document on Friday, May 8<sup>th</sup>. The document included a letter to Tennessee Pipeline providing comments on draft Resource Reports #1 and #10 filed March 13<sup>th</sup> for the planned Northeast Energy Direct Project. Councilor Vaillancourt commented she has the link to the posting. It is where they request responses to specific towns who have submitted concerns. They are asking Kinder Morgan to respond. Merrimack was not mentioned anywhere. Commissioner Perry stated the Town's filing was made the same day. Councilor Vaillancourt stated the Town Manager was asked about it. She spoke with legal counsel. The Town Council is not entirely sure of what occurred because the MVD's letter was posted, the Commission's letter was posted, the Town Council's letter in opposition to the project was posted; however, the one thing that was not posted is the AECOM response letter. There was some miscommunication, and it will be posted.

Chairman Tenhave stated agenda item was intended to generate further discussion of comments to be posed during scoping meetings and questioned if members of the Commission were prepared to have that discussion.

Councilor Vaillancourt spoke of having received questions from constituents. Kinder Morgan had talked of horizontal drilling under the river, and the question was raised of why that could not be utilized at the Horse Hill Nature Preserve (HHNP) and other locations rather than digging a huge trench. Vice Chairman Caron commented he has not heard that proposed for Long Pond. Another question was what would occur if they were to encounter a vernal pool or endangered species.

Chairman Tenhave stated he has questions regarding drilling and water quality testing in order to understand whether or not they have had an impact. He would like to understand how they would intend to protect habitats that may be impacted or could be impacted by staging areas, permanent structures; particularly if there were to be a metering station constructed. Commissioner Perry commented on the noise generated by metering stations.

Councilor Vaillancourt commented if they were to connect to this transmission line that is where they would do it. If there is a metering station, there is a possibility that there could be a connection for distribution there. They are saying there is a very good chance that they are looking at Merrimack for placement of a metering station.

## **2. Annual LCIP Boundary Walk of Wasserman Conservation Area**

Commission to review the annual walk that took place on May 10<sup>th</sup> of the Wasserman Conservation Area in accordance with our LCIP responsibilities to the State.

Chairman Tenhave stated four members of the Commission hiked the property the prior Sunday. The land area was captured on GPS. They noted where motorized vehicles are encroaching on the property (one general area). The Burning Bush invasion continues to go strong (more than a few acres). He stated the need for the Commission to give consideration to how to address it.

Chairman Tenhave will prepare a report. A draft will be forwarded to those who participated in the walk to allow for additional input.

Vice Chairman Caron stated Matthew Casparius, CPRE, Director of Parks & Recreation, is going to lead a hike at 5:30 p.m. on Wednesday in Wasserman Park to discuss upcoming events at Wasserman Park. Vice Chairman Caron remarked he believes the scout who is going to be involved with signage at Wasserman Park also has ideas on signing trails. He stated his intent to attend just to get a better idea of what the plans are. Chairman Tenhave noted the scout would have to come before the Commission. Chairman Tenhave stated he would reach out to Director Casparius to ensure the scout is made aware of the requirement to come before the Commission.

NEW BUSINESS - None

## OTHER BUSINESS

- Beaver Management and Water Level Control Activities

Commissioner Perry spoke of the final report having been provided. He commented on conservation posters included in the middle of the 70+ page report noting one was missing some of the properties. GZA GeoEnvironmental, Inc. (GZA) is finishing up on the commitment by working on the Fact Sheet for beaver management so there will be something to use for educational purposes. That should be provided in the next week or so.

Councilor Vaillancourt questioned if the final plan has to come before the Commission or if agreement has already been reached on what will occur with the management policy. Commissioner Perry responded the Commission does not have a real formal agreement with the Town as to how management will occur. The Commission has discussed its responsibilities and those of the Town, but as far as implementing corrective measures, if any, there is no real formal agreement. He noted the flowcharts in the back of the chart relative to how the Commission is supposed to proceed. That will be proposed to the Town for how to address these issues going forward.

Councilor Vaillancourt questioned if she would bring the document to the Council or if the Commission would present it to the Council. Chairman Tenhave stated the Commission will receive the report. That will be the end of GZA's involvement. They have some other deliverables, which Commissioner Perry will follow up on. There would be discussion at the Commission level as to a proposed beaver management policy and planning, which would be taken to the Town Council. He added, when he met with the Council in January he told them the Beaver Management Plan was forthcoming. It was agreed it would require a separate meeting. He intends to bring it forward to the Commission over the summer, and have a meeting with the Town Council by the fall.

Chairman Tenhave spoke of having had the opportunity to speak with residents in the Hansom Drive area about working with their activity. He questioned where that falls in the list of priorities. Commissioner Perry stated it to be pretty low because there was not a lot of flow. The PWD is not spending a lot of time over there addressing it, and the residents like the pond. There are two culverts; one on the inlet and one on the outlet side. The inlet side is regularly not below water so they don't try to dam it because there is no water flowing through it. It is only during heavy rains that it flows and then it ebbs back off and is not flowing anymore. They are happy with the pond as it is. Chairman Tenhave agreed and commented there was only concern of the PWD being out there fairly often. That is what he was told.

- Review of the Annual Seedling giveaway on May 9th at Currier Orchards

Commissioner Perry stated the event was successful with about 75 residents coming through. There were 400 seedlings purchased and only about 30-40 remained. He left it with Mr. Currier that he would retain the seedlings at the orchard for a few days and leave the signs up stating they are available. Mr. Currier was going to take the extra back to Willow Tree so they could at least be put in the ground. It was largely successful. He commented on the large number of questions about Evergreens.

- Watson Park Kiosk update

Chairman Tenhave stated he has started to follow up on the items spoken of during the last meeting. He spoke with George May and reached out to the Heritage Commission, but has not yet received a response. He also reached out to Director Casparius who stated there were no plans for that yet. He noted he is still looking for a Commissioner to take the lead on the kiosk project.

- Update on Environmental Impact Study for HHNP and Gilmore Hill Memorial Forest

Chairman Tenhave informed the Commission he heard from Jeff Littleton earlier in the day. He and his interns have started their trappings in order to mount the transmitters and begin collecting data. He has had a Botanist visit the site who will be spending more time onsite looking for rare plants and species. They have already started to identify some items. He has been documenting vernal pools. Earlier this year he did a lot of GIS work and mapping to support his going out in the field now and validating what he found through all of that. He is going to do bird surveys. They will be starting soon with Laura Deming, Senior Biologist, Audubon Society. Mr. Littleton has noted a good deal of snake activity. However, what he has seen is the Ribbon snake. He has not seen any Hognose or Racers at this point. He is going to put up cover boards, which provide cover for snakes. You leave them out in the woods and every now and then you lift the cover and take a look. Commissioner Perry suggested the cover boards be marked so users of the trails don't pick them up and toss them.

Mr. Littleton has stated the desire to be made aware of whether or not he could expect to be joined by representatives of Kinder Morgan.

Vice Chairman Caron spoke of having seen orange flags in the HHNP. Chairman Tenhave suggested he speak with the Sub-Committee. It could be they were put out by Mr. Littleton.

Chairman Tenhave informed the Commission he would be unable to be in attendance at the next meeting. He noted there would be one project on the agenda.

Commissioner Boisvert questioned if the Commission would be discussing the possibility of declassifying Grater Road. Chairman Tenhave stated the need for him to put the information together and forward it to the Town's attorney for review. Commissioner Boisvert offered to provide assistance.

#### PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. . . . . May 4, 2015

*The following amendments were offered:*

Page 2, Line 6; replace "south" with "sought"  
Page 2, Line 33; add "be" between "will" and "part"  
Page 3, Line 14; replace "bene" with "been"  
Page 3, Line 26; add "it" between "if" and "can"  
Page 4, Line 31; replace "New Hampshire Local River Management" with "Souhegan River Local"  
Page 5, Line 35; replace "Watson Park" with "Wildcat Falls"  
Page 6, Line 30; add "and" before "along"

**MOTION BY COMMISSIONER TENHAVE TO ACCEPT AS AMENDED**

**MOTION SECONDED BY COMMISSIONER CARON**

**MOTION CARRIED**

**5/0/1**

*Commissioners Boisvert Abstained*

PUBLIC COMMENT - None

#### COMMISSIONER COMMENTS

Councilor Vaillancourt spoke of a recent timber harvest conducted in Town (Atherton Road), and noted a good many abutters to the property expressed displeasure at a recent Town Council meeting. At the last Town Council meeting an item was placed on the agenda by an abutter to the property, Ms. Wendy Thomas, 10 Wildcat Falls. The agenda item was identified as Selective Cutting – Best Forestry Management Practices for Merrimack. Ms. Thomas wished for the Town Council to adopt voluntary forestry management practices as mandatory. There was discussion regarding that, and a motion put on the table to have that topic sent to the Commission for discussion/decision. That motion failed.

Chairman Tenhave stated it to be a fairly lengthy document, which was developed by the New Hampshire Department of Resources and Economic Development, Division of Forests & Lands, the UNH Cooperative Extension, and the Society for the Protection of New Hampshire Forests, which has been published, and is titled Good Forestry in the Granite State. It is a best management practice document. It touches on State RSAs involved with forestry. He commented it is both an extensive and well-written document.

Commissioner Boisvert spoke of having identified the information he could regarding what the Commission would need to be put into the GIS system.

Chairman Tenhave informed the Commission of receipt of a letter from the New Hampshire Department of Transportation informing the Commission they would not give the Commission an easement on the parcel next to Wildcat Falls, but, in the future, they are looking at giving the Commission a permanent easement when they have completed the highway widening project.

Chairman Tenhave spoke of a few publications that have been received and are available for review.

Chairman Tenhave noted Friday would be the last day for Sue Holstein, Secretary, Community Development, and expressed his gratitude for all of the assistance she has provided the Commission.

#### ADJOURNMENT

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

*The May 18, 2015 meeting of the Merrimack Conservation Commission was adjourned at 9:33 p.m.*

Submitted by Dawn MacMillan