



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

NOVEMBER 18, 2019

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, November 18, 2019 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Matt Caron, Chair, presided:

Members of the Commission Present: Steven Perkins, Vice Chair
Gina Rosati, Secretary
Michael Boisvert
Cynthia Glenn (arrived at 6:32 p.m.)
Gage Perry
Eric Starr, Alternate Member
Michael Swisher, Alternate member
Tim Tenhave, Alternate Member
Councilor Peter Albert

Members of the Commission Absent:

Also in Attendance: Theresa Martens, 12 Colman Path
Jeff Littleton, Ecologist, Moosewood Ecological, LLC.

PUBLIC COMMENT

Theresa Martens, 12 Colman Path

She and her husband live by the access to Grater Woods near the Beaver Pond. She wished to ensure comments received by the Commission were not limited to residents who abut the access. Her home is about 100 yards away.

They moved to their home 4 years ago having the desire to be located near the trails in Merrimack. They walk their dog through the trails daily; typically early morning. She is concerned with the hunting uses on Grater Woods. She has been on the trails and run into hunters sitting perched to shoot. It is unnerving. They hear shots being fired from their home. She has a hunting license, but no longer has a firearm. She spoke of an instance of being out with her firearm walking around with friends, and realizing the safety had not been on. That was enough of a concern for her so that she no longer owns a firearm. She believes there have to be others who could do something unintentional such as that.

She spoke of the number of homes that abut the trails and the amount of use, and suggested common sense needs to prevail that those activities are not a good mix. She is not against hunting; she just thinks there are places for it. She spoke of an area hunters traverse placing them less than 100 yards from her home. When in that area, hunters may not be aware they are no longer on conservation land.

Commissioner Perry commented on it being the responsibility of the hunters to be aware of their surroundings and location. He questioned if the police have been called (enforcement issue), and was informed they have not yet been contacted.

Councilor Albert questioned if her opinion is that hunting should not be permitted on any of the conservation land or if she was looking for an additional buffer.

Ms. Martens spoke of having listened to the Commission's recent discussion, and stated her personal opinion there shouldn't be hunting on conservation lands given the amount of homes in the area. She spoke of having heard the Commission address legal precedent for the rights; however even with legal precedence evolution dictates change at some point. There are a lot of people using the trails. At some point, there needs to be the balance of common sense with regard to permitted uses.

She questioned how the Town would address an issue of someone being hurt when the Town permitted the use, and commented on the potential liability.

Councilor Albert suggested she and others who have come before the Commission also reach out to the Police Department with the concerns.

Commissioner Boisvert spoke of the discussion the Commission has had around the possibility of expanding the "no shooting" area so that hunting would be prohibited on the trail that goes behind the residences and also heading towards the stream.

Asked if her property has been posted, she indicated it has not. The back of her property goes down a hillside to the marsh. There is no reason for anyone to be in that area.

Councilor Albert added it would have to be posted to be legally enforceable. Commissioner Swisher commented on the default in the State being that you can hunt, unless posted. It is State law that we are bumping up against.

The discussion continued around the neighborhood posting "no hunting". Ms. Martens stated the suggestion to be well noted that the neighborhood post.

PUBLIC HEARINGS - None

APPOINTMENTS

1. **Jeff Littleton, Ecologist, Moosewood Ecological, LLC.** – Presenting an update on the Grater Woods Eco Survey.

Jeff Littleton, Ecologist, Moosewood Ecological, LLC., stated the project is being completed. They had transmitters on three (1 male and 2 female) Blanding's turtles. The male eventually found his way back to the property, but the two females stayed away for quite a while (left for summer). They continue to search for one of the transmitters. He spoke of driving around the property and various wetlands around Grater

Woods. His intern went out 3-4 weeks ago and found the male was still onsite and one of the females. She will go back out within a week or so to search for the remaining female.

Asked how far they travel, he stated it to be miles. Asked if they travel in a family pack, he indicated they do not; once born, they are off on their own. The male was southeast of the property at one point. In the spring, after mating, they look for the vernal pools.

They have identified (during breeding season), over 75 different birds on the property, 18 of which are species of conservation concern either listed in the New Hampshire Wildlife Action Plan or on the Regional Conservation Plan, e.g., Prairie Warbler, Rufous-Sided Towhee.

Mr. Littleton remarked Grater Woods is an amazing place, not just for trails, but for the wildlife. He suspects it has a lot to do with the unfragmented block that goes into Amherst to the west. He was surprised by the amount of moose sign seen. Other sign noted was of bear, mink, otter, and beaver.

They also identified three reptiles of conservation concern; 2 listed at the State level as being threatened and endangered. He knew of one from years ago when doing a study in 2005, but confirmed the presence of another reptile (snakes and turtles).

There is a ton of Mountain Laurel in Grater Woods. It is an interesting mix of northern forest and southern forest coming together. The Oak/Mountain Laurel forest is interesting itself, and is considered an S3 at the State level meaning it is doing well; S1 is very rare, S5 is common. There are approx. 15 vernal pools distributed throughout the property. The arrangement and types of wetlands is why there is no surprise at the amount of wildlife in the area.

Species such as the Prairie Warbler and Rufous-Sided Towhee like open areas. The forest activity that occurred some 15 years ago contributed to the diversity that exists. The wetlands really break it up. There are emergent marshes, shrub swamps and forested swamps that really lend to the huge array of habitats that are in the area.

With regard to the report process (information will be available in January or sooner), they will go out an additional time looking for the last transmitter. One of the considerations is getting out next spring to get the transmitters off. The Commission may wish to consider whether to collect additional data (given the females took off) to see what may happen next year. Getting out and doing the telemetry doesn't take much time. If there is interest in continuing that work, he would work with a student. He was uncertain of the cost involved noting it would take about half a day to conduct the work (hourly rate and mileage). He suggested the June timeframe as June is the nesting season. Asked for an estimate of the greatest cost, he suggested it would be \$5,000, and indicated he would prepare a budget.

Chair Caron questioned if any rare or interesting wildlife or plant life was noted. Mr. Littleton stated they did not find anything rare. There were not a lot of invasive species onsite.

Commissioner Tenhave stated the most recent acquisitions to assemble Grater Woods are properties on the south and southeast. He questioned if all of the parcels were covered. Mr. Littleton stated his belief they were. Grater Road cuts through, and it appeared to be a new acquisition as signage "no target shooting" was seen. They did search that. He noted the large wetland system in the area.

Asked if there was any large debris/trash noted on the property, he indicated he is not aware, but will go through the photos that were taken by all of the individuals involved in the project to verify.

Asked about the timing should another vernal pool party be desired; he suggested the end of April/beginning of May.

STATUTORY/ADVISORY BUSINESS - None

NEW BUSINESS – None

OLD BUSINESS

1. Conservation Ranger – continued discussion

Commissioner Starr spoke of the meeting with the Londonderry Conservation Commission commenting he did not learn much beyond what was covered in the information provided in the previous communications (emails). He heard of the day-to-day operation, which provided him with confidence a Conservation Ranger would have an even greater amount of work in Merrimack.

Commissioner Boisvert suggested the Commission could support the cost for a year or two, but could not do so long-term.

Noted was that the Londonderry commission covered the cost of the position and equipment for the first year, will split the cost of the salary the second year, and in the third year, the cost of the position will become part of the Police Department budget.

Commissioner Boisvert commented an arrangement such as that is workable. Councilor Albert questioned the salary amount, and was informed the Londonderry position was at \$30/hour for 20-24 hours/week. He spoke of there being several items of concern regarding enforcement. He believes this to be a good approach to some of the issues. At \$30/hour and 20 hours/week, the salary would be \$31,200. The individual would fall under the authority of the Police Chief as there are certain qualifications required. He noted the Police Department has 1-2 OHRVs, trailer, pickup truck, etc. There may be the opportunity for that equipment to be used. He stated his support and suggested, if the will of the Commission, he would recommend speaking with the Finance Department.

Commissioner Boisvert commented the desire would be for the Commission to be involved in the interview process.

It was suggested a mountain bike would be the best form of transportation. Councilor Albert commented on the pool of candidates (likely retirees), and whether a mountain bike would be the right equipment.

Chair Caron suggested the next step would be to meet with the Town Manager, Assistant Town Manager/Finance Director, and Police Chief. Councilor Albert stated a willingness to reach out to the Town Manager for direction.

Commissioner Swisher stated, on principle, he does not hate the idea, but questions the need. Most of the supporting information seen to date has come from police officers who would benefit from a larger force/budget. He has not heard feedback from more conservation minded folks in Londonderry. Commissioner Starr stated there were four on the Londonderry Conservation Commission; one was the officer. The feedback was favorable although the position is still within its first year.

Commissioner Swisher commented it seems like a large change for the Town and the way the Commission

has historically managed its properties.

Councilor Albert stated the suggestion was intended to address concerns expressed. He was looking to understand the will of the Commission, and whether it is believed there is enough of a problem to lead the Commission in this direction.

Commissioner Swisher spoke of some of the aspects of the way the program is run in Londonderry, and how they would not work in Merrimack, e.g., hours are 10:00 a.m. to 2:00 p.m. weekdays. He spoke of not wanting to see ATV use grow on the properties. He can see the value, but is uncertain the need rises to the cost.

Commissioner Boisvert spoke of growth in Town and the demands on the Police Department. Commissioner Rosati commented on the activities of the past few weeks at Wildcat Falls and other properties.

Councilor Albert spoke of the nature of the position being that of education. Commissioner Swisher agreed, but was uncertain with it being justification for the expenditure. He sees it as a large step to take for the problems he is aware of. Mention was made of drug deals, which is a great example of an issue within the purview of the Police Department, which already patrols the parking lot at Wildcat Falls.

Vice Chair Perkins commented on having spoken with the Chairperson of the Londonderry Conservation Commission noting one message that resonated from that discussion was that they saw the person as almost an ambassador of the commission. The individual performed a lot of the surveys, audits and those types of functions.

Commissioner Perry suggested it to be worthy of a conversation with the Town Manager and Police Chief. There may be options the Commission is not aware of. He is not in favor of a large expenditure.

Chair Caron spoke of a large need at the Sklar Waterfront property. Councilor Albert noted the position would be that of part-time; at-will employee. Were the Commission to move in that direction, and it did not prove to be fruitful, a decision could be made not to fund it the following year.

Commissioner Tenhave commented what has been frustrating to him over the years is the lack of investment we, as a Town, do in our conservation properties. We fund the sports programs immensely, give large checks to the MYA, provide opportunities for sports in the school systems, summer activities, and nearly nothing, except for the \$4,500 in the Town budget, for the Commission and properties. Yet the properties have at least quadrupled in terms of usage since when he first got involved 17 years ago. He believes the idea of having the officer would be a good thing because of the increased usage. He reiterated it would be an employee-at-will situation. He would like to see recognition of there being properties that need to be maintained and for the Town to take on the responsibility for the cost of doing that from the onset.

Commissioner Rosati stated agreement commenting there are large chunks of land that are not being patrolled.

Commissioner Tenhave added he recognizes the fact that, over the years, the Town, through the voters, has approved for the way the funds were developed and the properties purchased, and that the Town endorses and is committed to conservation.

Commissioner Boisvert questioned and Commissioner Tenhave suggested, if the Town Council were to move forward, that they utilize a special warrant article. It would allow residents to express an opinion on this position rather than embedding it into the budget. Once approved, the funding has to be used for that purpose only. It will require education. It could be placed on the April ballot by Petition.

Councilor Albert suggested, if the desire of the Commission, it should be presented to the Council now, and efforts should get underway to get the word out, and begin educating the public on the request. He suggested the Commission create a list of issues currently and previously faced to serve as justification, and to be forwarded to the Town Manager.

Councilor Albert will reach out to the Town Manager.

2. Hunting boundaries at Grater Woods

Councilor Albert spoke of the public comment provided, and stated he is not against extending the boundary to provide additional buffer. Commissioner Boisvert stated the area of concern to be the cul-de-sac/Beaver Pond area (water area behind residences). Commissioner Perry stated it would be along the pathway. The Commission cannot control the area of the water. Chair Caron commented if there is water within 100 yards of a residence, then the Police can enforce it. The Commission could post signage such as “for public safety” this is an area created as an additional hunting buffer. He stated his belief the issue and discharge of firearms close to the neighborhood is generated by people duck hunting in the water.

Commissioner Perry questioned if NH Fish & Game should be asked how the Commission go about enforcing a buffer that is beyond the State limits. Chair Caron stated altering the buffer would require signage (could use red and white stakes) and most importantly education. It would not stand up in court, but would be treated like private property. Councilor Albert suggested signage indicating “no hunting boundary” and perhaps at the entrance to the path there is signage posted explaining the new buffer area. He believes a lot of the hunters will respect the request. Chair Caron stated agreement.

Vice Chair Perkins questioned why, as the property owner, the Commission could not simply put no hunting signs on that portion of the property. Commissioner Boisvert responded the residents could, but it would not address all of the houses. Commissioner Perry stated it would have to be on both sides of the trail. Chair Caron noted it to be from where the Red Maple Trail starts off of the Gateway Trail on one end and then after the observation deck off the cul-de-sac going towards the start of the Drilled Rock Trail.

Commissioner Starr suggested the buffer could be bumped out to Beaver Pond and perhaps west of the trail, which would cover Beebe Lane and Colman Path as well as Trowbridge Drive. Commissioner Tenhave cautioned on the precedent that would be set by such an action, and spoke of the likelihood other neighborhoods would come forth with similar requests.

Chair Caron spoke of having been out in the woods and being approached by a hunter who realized he was a member of the Commission. The hunter asked if a ban could be placed on mountain bikes in the mornings as they disrupt hunting. He informed the individual he was welcome to come to a meeting and bring the request forward. He did not come forward. However, over the past few meetings, the Commission has had residents come forward to engage in productive discussions about a particular small area, which he believes could be cleared up through education.

Duck hunting season goes from October 2nd through November 3rd and November 20th through December 16th. Canadian Geese are September 1st through 25th, and then the same as ducks.

Commissioner Swisher suggested, if going down the route of exercising property owner rights, and posting something that is beyond what the State law indicates, why not just close off that pond; say it has been abused too much, people keep encroaching on landowners, there is noise pollution, etc. One unintended consequence of closing off that end is that you will force everyone on the other side facing back towards those homes to be rained down with bird shot. The entirety of the pond is surrounded by trails. Commissioner Swisher suggested a single sign at the kiosk stating Beaver Pond is closed for hunting. It has the same effect without all of the signage, and solves the neighborhood problem.

Commissioner Boisvert stated agreement. Commissioner Swisher stated the issue of legality would be the same whether posting it beyond the State regulated buffer or closing the entirety of the pond. Either way it would not be enforceable.

Councilor Albert stated agreement with concern over precedent setting. He would like to do something to help the neighborhood. He questioned the will of the Commission relative to posting at the trailhead asking hunters not to use a certain area based on requests from the neighborhood.

Commissioner Rosati spoke of having opened up a line of communication with the Fish & Game Commissioner, who has agreed to attend the January 6th meeting.

The Commission discussed the issue of multiple entrances used, and the possibility of signing the areas.

Councilor Albert commented he started the conversation off saying he was all in favor of setting boundaries, but listening to the senior members of the Commission he has changed his mind. He believes in an educational approach and signage. There is no use setting boundaries that are unenforceable because someone will test it. Commissioner Glenn commented one resident who provided testimony indicated he has tried to talk with hunters who were not receptive.

Chair Caron spoke of people who have been hunting Grater Woods since before Beebe Lane existed. Before it was Grater Woods, it was their friend's property. He is certain some of them feel encroached upon. Shutting off a pond would stir that pot. There has to be a means of educating others on the impact to the neighborhood.

Commissioner Tenhave stated the two parcels in question located around the Beaver Pond are both owned by the Town not the Commission. It is the Town Council that would have to set the policy.

That would not preclude the Commission from asking for their respectful consideration. Commissioner Perry noted the management rights have been granted to the Commission. Commissioner Boisvert suggested language warning of entering a residential area.

Chair Caron suggested the Commission identify language that could be discussed with the Town Council. The language could be presented along with the minutes of the meetings wherein public testimony has been offered on this situation. Commissioner Swisher stated his belief signage that would be used in establishing a boundary situation would differ from educational signage at the kiosk. He questioned the approach the Commission wished to take.

Commissioner Perry reiterated the sentiments of the Commission that the private property owners should all be posting "private property/no hunting". The signage the Commission may post would be requesting users of the property be mindful/respectful of the neighbors. Commissioner Swisher commented were the

Commission to post the area where Drilled Rock Trail starts that would likely say something a little different as it would mark a boundary.

Councilor Albert spoke of wanting to walk the area.

The Commission scheduled a site walk for Saturday, November 23rd at 8:00 a.m. beginning at the Beebe Lane circle.

OTHER BUSINESS

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

Ray Green, Commissioner, New Hampshire Fish & Game (Hillsborough County), will be attending the January 6th meeting.

2. Sub-Committee Updates

Wildcat Falls

Commissioner Rosati thanked Mike Boisvert for staining the kiosk, which had been defaced by graffiti. The lock on the gate cannot be opened. The key is in the box; however, a new lock has been placed on the gate. She requested Commissioner Perry contact the PWD to determine if the new lock is theirs.

Chair Caron requested Commissioner Perry also request the PWD clean the plunge pool on Conservation Drive. The road is washed out; needs a few water bars. Commissioner Perry stated his belief the cleaning may no longer be a yearly maintenance item (area has grown out).

Commissioner Rosati stated the need for additional maps, and questioned if she could make a request of Papergraphics. Commissioner Perry suggested a list be put together. Chair Caron stated there to be a box of maps for the HHNP. There are no maps for Grater Woods or Wildcat Falls.

Commissioner Rosati stated she, Elizabeth Petrides, and Officer Dudash walked the circle. Officer Dudash determined no tree was taken down; what looked like a root was a root from another tree. He felt there had been burning there. Asked if it was worthwhile to place a camera, he indicated it wasn't really worth tying up a camera because the circle had been broken down.

There were gunshots on the NHDOT sign. Officer Dudash pointed out, in the event anyone hears gunshots where they should not, that the Police Department be contacted.

The Sub-Committee discussed the desire to conduct the Moonlight Snowshoe Walk. Commissioner Rosati will contact the Town Manager, the Police Chief, and Town Council. The planned dates would be January 10th, February 9, or March 9th. The discussed route is the main falls loop and crossing the power lines.

The next meeting is scheduled for January 7th.

Grater Woods

Chair Caron noted the Sub-Committee has not met since the last meeting of the Commission. The only updates he had were related to the washout and a few trees that were toppled in the storm, which have been cleaned up.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. [October 21, 2019](#)

The following amendments were offered:

Page 2, Line 2; insert “drive” before “vehicle” and “will cover” before “half”

Page 2, Line 3; replace “became” with “will become”

MOTION BY CHAIR CARON TO ACCEPT, AS AMENDED

MOTION SECONDED BY COMMISSIONER ROSATI

MOTION CARRIED

7-0-0

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Commissioner Starr commented on being pleased with the NHACC meeting.

Commissioner Tenhave spoke of the work being done by GZA Geo-Environmental (GZA) to identify projects that would qualify for submission to the Aquatic Resource Mitigation (ARM) Fund. March is the timeframe for submission. He suggested the Commission reach out to GZA for the final report. Commissioner Perry will make contact.

Commissioner Perry reminded users of the trail it is hunting season, and those enjoying the trails should wear orange.

Commissioner Swisher spoke of having attended a training, Speaking for Wildlife, through the UNH Cooperative Extension. The training was for individuals wishing to present. At some point, it may be something the Commission may wish to support. There are currently about 8 topics ranging from New Hampshire natural history to very specific things like White-Nose Syndrome. He likes the idea of an outdoor presentation.

Commissioner Tenhave commented on the Commission having conducted the annual LCIP survey of Wasserman Conservation Area the previous weekend. He has prepared and will submit the report. The map has been generated and will be included with the submission as well as provided to the Town Council. He will also provide the State the photos that were taken during the most recent and past walks.

NON-PUBLIC SESSION

MOTION BY CHAIR CARON THAT THE BOARD, BY ROLL CALL, GO INTO NON-PUBLIC SESSION PURSUANT TO RSA 91-A:3 II (d) CONSIDERATION OF THE ACQUISITION, SALE, OR LEASE OF REAL OR PERSONAL PROPERTY WHICH, IF DISCUSSED IN PUBLIC, WOULD LIKELY BENEFIT A PARTY OR PARTIES WHOSE INTERESTS ARE ADVERSE TO THOSE OF THE GENERAL COMMUNITY
MOTION SECONDED BY COMMISSIONER ROSATI

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

Yea: Vice Chair Perkins, Commissioner Rosati, Commissioner Boisvert, Commissioner Glenn,
Commissioner Perry, Councilor Albert, Chair Caron

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Nay:

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MOTION CARRIED

The Commission entered non-public session at 8:52 p.m.

The Commission came out of non-public session at 9:57 p.m.

Minutes of the non-public session were sealed.

ADJOURNMENT

MOTION BY CHAIR CARON TO ADJOURN
MOTION SECONDED BY COMMISSIONER PERRY
MOTION CARRIED
7-0-0

The November 18, 2019 meeting of the Merrimack Conservation Commission was adjourned at 9:59 p.m.

Submitted by Dawn MacMillan