



## Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

### MERRIMACK CONSERVATION COMMISSION

OCTOBER 21, 2019

### MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, October 21, 2019 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Steven Perkins, Vice Chair, presided:

Members of the Commission Present: Gina Rosati, Secretary  
Michael Boisvert  
Cynthia Glenn  
Gage Perry  
Eric Starr, Alternate Member  
Michael Swisher, Alternate member  
Tim Tenhave, Alternate Member

Members of the Commission Absent: Matt Caron, Chair  
Councilor Peter Albert

Also in Attendance: Liz Petrides, Wildcat Falls Sub-Committee  
Jeff Hoye, 7 Tomahawk Drive

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*Vice Chair Perkins designated Michael Swisher to sit in for Councilor Albert and Eric Starr to sit in for Chair Caron.*

**PUBLIC COMMENT** - None

**PUBLIC HEARINGS** - None

### **APPOINTMENTS**

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

Vice Chair Perkins informed the Commission that Mr. Littleton was unable to be in attendance. The presentation will be placed on a future agenda.

**STATUTORY/ADVISORY BUSINESS** - None

### **NEW BUSINESS**

**1. Londonderry Conservation Ranger – would this position work in Merrimack**

Vice Chair Perkins stated he spoke with the Chair of the Londonderry Conservation Commission, who informed him of the success of their program, and commented on the number of inquiries received from other conservation commissions. They had a very significant target shooting problem on one of their major properties, which helped push the program through. Their Conservation Ranger assists with annual property surveys, monitors trail conditions, manages game cameras, and, when needed, judicates property encroachment issues, which has been enormously effective. The individual they hired for the position has 20 years of law enforcement experience in town. The commission covered the cost of the position for the first year, which included the purchase of a four-wheel drive vehicle (approx. \$75,000), and will cover half of the cost for the second year. In the third year, the position will become part of the town budget. The position is part-time 20 hours/week (1,352 hours/calendar year). The ranger attends 1 commission meeting each month, and will attend the NHACC meeting. When the individual was hired, NH Fish & Game invited him to participate in their training.

Councilor Albert has spoken with Eileen Cabanel, Town Manager, and received her feedback. He has not yet approached the Town Council as he would like to first receive feedback from the Commission. The Town Manager indicated she would not be including funding for such a position in the proposed budget for the coming year. Councilor Albert discussed the position with Denise Roy, Police Chief, who seemed interested in the program. If following the Londonderry model, the position would be part of the Police Department.

Councilor Albert has suggested such a position could be a means of addressing the issue of the Police Department's ability to enforce laws and ordinances on Commission properties.

Commissioner Perry suggested the Commission continue to look into the possibility of such a position. Commissioners Glenn and Rosati spoke of instances of vandalism on Commission properties. Commissioner Boisvert suggested were such a position able to be created, having the individual available on alternating weekends or something similar would be helpful given the amount of activity that occurs during those times.

Commissioner Tenhave stated concern with the cost and whether it would be an acceptable use of Fund 51 or Fund 53. When police details were utilized previously, the Commission paid an hourly rate, which did not include the cost of benefits, etc.

The item will appear on a future agenda when a full contingent of the Commission is expected. Vice Chair Perkins will distribute the information received to date.

Commissioner Rosati questioned development that might be planned in Town, which would result in revenue related to the Land Use Change Tax. Commissioner Tenhave stated uncertainty noting the need to determine what has come out of current use. Commissioner Perry spoke of a previous list of properties that fell into that category. He will look to obtain an updated list.

Commissioner Rosati spoke of having requested Liz Petrides, member, Wildcat Falls Sub-Committee be present for the discussion of Item #2; however, had recommended she be present for 7:00 p.m.

***There being no objection, the Commission went out of the regular order of business.***

**3. 2020 Membership Dues – NH Association of Conservation Commissions**

**MOTION BY VICE CHAIR PERKINS TO APPROVE THE INVOICE FROM THE NEW HAMPSHIRE ASSOCIATION OF CONSERVATION COMMISSIONS FOR 2020 MEMBERSHIP DUES IN THE AMOUNT OF ONE THOUSAND SEVENTY-FIVE DOLLARS (\$1,075) AND ALLOW THE TOWN FINANCE DEPARTMENT TO PAY THE BILL WITHIN A REASONABLE TIME AND WHEN MEETING CASHFLOW ABILITIES. SOURCE OF FUNDING IS THE TOWN BUDGET**

**MOTION SECONDED BY COMMISSIONER GLENN  
MOTION CARRIED  
7-0-0**

Grater Woods

Commissioner Boisvert noted public comment received at the last meeting regarding the desire for a larger buffer zone behind the properties located at the cul-de-sac on Beebe Lane. He suggested the 300' buffer could be extended slightly by signing the trail that runs along the pond and behind the homes and the area by the beaver dam and observation deck (Drilled Rock trail junction) towards the homes. The signage could read something along the lines of "residential area, no hunting".

Commissioner Perry stated no objection to signage; however, noted the need for agreement with the Police Department and Town to increase the buffer beyond State regulations. He cautioned the Commission on setting precedent. The proposed area is an ideal location for this type of remedy; however, could result in additional requests for other areas.

Commissioner Tenhave questioned what Fish & Game would do if a hunter were outside of the 300' regulation, but inside the posted area. They could not enforce it. Commissioner Boisvert commented this situation falls back on the ownership aspect of the property. Commissioner Perry agreed it is a matter of managing Town/Commission property.

Asked how large of an area was being discussed, Commissioner Perry remarked you could stand in the middle of the area and see the water and the homes. The trail is bound by a neighborhood and the pond; confined area.

Commissioner Swisher commented in dealing with gunshots that struck homes, the Town of Atkinson banned firearms on Town owned properties. That stood for a few years. Following a boom in the tick population, they allowed, by permit, bow hunters to come onto the property. The Town issued a permit, which effectively was land-owner permission. It would eliminate the danger and noise concerns.

Asked how they addressed hunting on the water, Commissioner Swisher noted an exception he found in the middle of the document that said they never changed any of the bird hunting. That continued untouched.

Commissioner Swisher stated his belief there is concern with the potential for lawsuits if banning hunting outright. Perhaps a middle ground is permitting archery only. Asked if the thought would be to permit only bow hunting in that one area or throughout the Town/Commission properties, Commissioner Swisher responded it would be easiest to say, for example, Grater Woods is bow only. That would eliminate the need for signage along the trails. Commissioner Boisvert questioned the unintended consequences of limiting hunting to bows.

Commissioner Swisher spoke of being sympathetic to the pleas of the residents who appeared before the Commission. He noted, had the Commission gone in a different direction of saying no hunting on these lands, it is likely there would have been an equal number of people in attendance to speak of how they have participated in that activity on these lands for generations. Commissioner Boisvert stated his belief there would not be much in the way of objection relative to the area in question. Commissioner Tenhave stated it would get attention simply on principle.

Commissioner Boisvert questioned the will of the Commission. Commissioner Perry stated the need to determine whether enforcement capabilities would exist. Commissioner Swisher stated his belief it is the most practical approach.

Commissioner Rosati questioned if the Fish & Game Officer from Milford could be asked to come before the Commission to participate in a discussion. Commissioner Perry stated he would appreciate hearing his opinion. Commissioner Swisher suggested it might be helpful if the officer visited the area in question. Commissioner Perry remarked the desire is to restrict the interactions between hunters and the public.

Noted was the need for additional maps for Grater Woods and the Horse Hill Nature Preserve (HHNP). Commissioner Perry will review prior orders and timeframes to determine the most appropriate quantity to order.

Commissioner Swisher informed the Commission of the suggestion by the HHNP Sub-Committee that QR codes be placed on the green posts at various milestone markers within the property. Commissioner Tenhave agreed it should be made more prominent maps are available electronically. It was suggested a well-designed 8 ½ x 11" sheet of paper with a larger code and notice indicating if out of maps the code can be scanned, could be produced at little cost.

***The Commission returned to the regular order of business.***

**2. Wildcat Falls - Property Use Concerns**

Liz Petrides, member, Wildcat Falls Sub-Committee, spoke of coming across a tree stand along the powerline trail at Wildcat Falls (State DOT property side, which permits hunting). There is no name or phone number, etc. listed on the stand. She contacted Ray Green, Hillsborough Fish & Game and left a voicemail message.

Monday night there was activity on the trails (State property). On the main loop there is a secondary jug handle that comes off, which is where you can go under the bridge by the highway. At the first intersection, someone cleared a ring of dirt and put stones around it with 13 sticks upright across. She is of the impression the individual(s) brought in rocks as there was a large pile of rocks where a tree used to be (would require a few people to do). The letter P was etched in the dirt. She was unable to find any evidence of where the tree is; roots are visible, but the tree is gone. She and Commissioner Rosati walked the area on Wednesday. A report was made to the Police. Commissioner Rosati stated Captain Dudash, Merrimack Police Department, will walk the area with them on Saturday. His interest is in learning if a crime was committed.

Ms. Petrides spoke of a marker on the tree that has the property boundary between the State and Town land. On Saturday her husband came across the sign, which now has bullet holes in it. She commented on having heard shooting around 9:00 p.m. the night before. She reached out to the Police Department and has provided a statement.

Ms. Petrides commented, while in the area, she and Commissioner Rosati spoke with a woman who resides nearby, and indicated she has heard gunshots at night.

Ms. Petrides stated it was expressed to her they might want to investigate putting a camera in the area. Commissioner Rosati stated her belief they should put a camera on the circle because whoever left the tree stand there is likely coming back for it. Asked if there is a contact at NHDOT, Commissioner Tenhave suggested the Town Manager could provide that. Commissioner Rosati will inform the Town Manager of the activity occurring on NHDOT property.

Commissioner Perry noted when reports are made to the Police Department, the Commission notifies Tim Thompson, Director, Community Development Department.

Commissioner Swisher spoke of having seen a hunting blind not far from the area (State land).

Commissioner Starr commented while there mid-day Saturday, he was walking along the powerline and came across some large metal structure on the ground. Ms. Petrides commented she came across that as well, and it looked as if it was something that came off the powerline. Commissioner Starr agreed. Commissioner Perry stated it to be a guy wire anchor.

Commissioner Perry informed the Commission of having been contacted by Michael Redding who is wanting to volunteer. He is interested in Grater Woods. He will be contacted regarding participation on the Grater Woods Sub-Committee.

#### **OLD BUSINESS** - None

#### **OTHER BUSINESS**

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

Vice Chair Perkins reminded Commissioners interested in attending the NHACC to select/sign up for classes.

Commissioner Starr indicated he signed up a few days ago. He is taking Land Conservation Options and Rules for Conservation Commissions, Using GIS to Create Maps for Conservation Land, and Land Stewardship and Management Plans.

Commissioner Rosati spoke of an email related to a large tree that fell across the Drilled Rock Trail. Commissioner Swisher noted he made the Chair aware of that, and he indicated he would address it.

2. Sub-Committee Updates - None

#### **PRESENTATION OF THE MINUTES**

Merrimack Conservation Commission. . . . . [October 7, 2019](#)

*The following amendments were offered:*

Page 2, Line 5; replace “worse cast” with “worst-case”  
Page 2, Line 24; insert “be” before “separated”  
Page 3, Line 9; correct the spelling of “Hitchin Post” and “Mitchell St.”  
Page 3, Line 11; insert “hour” following “1/2”  
Page 4, Line 8; insert “hour” after “1/2”  
Page 5, Line 10; replace “like” with “luck”  
Page 5, Line 13; add units of measure  
Page 5, Line 13; insert “said” following “who”  
Page 5, Line 40; insert an apostrophe to indicate possession for “abutters”  
Page 6, Line 16; replace “Rick” with “Rock”  
Page 6, Lines 30 and 32; correct the spelling of “liable”  
Page 6, Line 40; replace “counsel” with “Council”  
Page 8, Line 33; insert “there” before “are no”  
Page 11, Line 25; replace “a” with “an”

**MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED  
MOTION SECONDED BY COMMISSIONER SWISHER  
MOTION CARRIED  
7-0-0**

**PUBLIC COMMENT**

Jeff Hoye, 7 Tomahawk Drive

Spoke of proposed amendments to Chapter 111 of the Town Code. He feels strongly about the way conservation lands are managed. He has lived in Merrimack for quite some time, and has seen many changes over the years. Some of the traditional uses of open spaces have included current uses, e.g., hunting, mountain biking, hiking. He feels the change regarding the category “All” lands having the restriction on motorized use is a bit too strong. He would like to do what he can to assist in making the rule. He remarked in order to make a change, particularly one that could carry a fine of \$1,000, you need to proceed carefully.

He questioned the amount anticipated to be expended on enforcement, and, if a large expense, how it would be funded. He spoke of reference to motorized use being included in literature, signs, maps, and websites, and questioned if there is a cost associated with removing that reference. He questioned if the number of residents that would be impacted by this restriction is known.

Commissioner Tenhave stated the cost expended on the police detail can be obtained through the Town Finance Department. Regarding the number of residents that would be impacted by the change, he indicated the Commission has a pretty good idea of the number.

Mr. Hoye suggested the Police Department could be asked to provide information on the number of calls received. In his opinion, it seems as though the problem doesn’t really fit the solution. He believes the recommended change is papering over something that is already being handled. Asked how it is being handled, he responded through education. Commissioner Perry stated disagreement. Commissioner Rosati noted the damage to the trails at the Sklar Waterfront property; one of the Commission properties that is being heavily damaged by motorized vehicles.



Mr. Hoyer stated his objection is to restrict the use in places where it is currently permitted. Commissioner Glenn asked for clarification he is concerned with a few trails in Grater Woods. Mr. Hoyer stated that to be correct. Commissioner Tenhave noted the area in question is thousands of feet.

Mr. Hoyer remarked the Sklar Waterfront property, lands around Greens Pond, and other acquisitions that have occurred in the past 5-10 years are areas where people have operated off-road vehicles for quite some time. Through acquisition and restriction, those lands have been removed from that use.

Commissioner Boisvert commented on properties purchased by the Commission having been private prior to acquisition and posted no ATVs, no target shooting, etc. The restrictions were simply disregarded.

Commissioner Perry reiterated the disregard for existing rules, and damage that is occurring. He spoke of the time and effort of volunteers to address damage.

Commissioner Rosati questioned the desired outcome. Mr. Hoyer stated his belief restricting all lands managed by the Commission is an overreach. The places where trail riding is permitted by motorized vehicles should remain. Groups of parcels that have management plans in place already have the attention they need in terms of regulations. He fully supports all of the smaller properties, back waters, and swamps being lumped together because you can't really do anything to them except for walk around. It makes sense to have a clear, easily understandable set of rules that are common to a large group of parcels. He simply believes it to be a step too far to say "all".

Commissioner Rosati questioned who would be responsible for addressing continued damage. Mr. Hoyer stated it to be those who manage the land. Commissioner Rosati spoke of continued damage by motorized users becoming the responsibility of volunteers to address. Mr. Hoyer questioned if a major logging operation is due to occur in the next 5-10 years. He stated a willingness to participate in the addressing of damage that is occurring.

Commissioner Tenhave noted the rule that was put into place at the HHNP was that a group of people take responsibility. That is what is being asked for here; if there is a group willing to be responsible for it, he does not believe the Commission would object to the continued use. Mr. Hoyer noted, if a change is put in place, it would require another change to turn back.

Commissioner Perry noted the Commission had members of the Right Riders as the group at Grater Woods. Mr. Hoyer stated an awareness indicating he participated in that discussion, but it was not written into the Management Plan. It is different from the HHNP. Commissioner Perry stated trail classifications are written into the Management Plan. Mr. Hoyer noted a requirement for an organization does not exist in the plan. Commissioner Tenhave stated that to be correct. Commissioner Perry stated they were not written out of it. That is the point. That is what we are doing now, going back to the same thing being done with the HHNP. If there is a responsible party that wants to take over that trail maintenance, that use could occur. Commissioner Tenhave noted the Right Riders have abstained, and are not doing it.

Mr. Hoyer suggested rather than restricting "all" properties within the Town Code with a penalty of fines, that the Stewardship Plan for Grater Woods be updated. There could be enforcement through the Stewardship Plan. Commissioner Tenhave noted there is not enforcement without an Ordinance. What the Commission is effectively doing by amending Chapter 111 is taking the rules and making them part of the Ordinance, which would provide for enforcement. The way it currently stands, the only enforcement is trespassing after being told to stop. In addition to that, if damaging the property there would be responsibility for that.

Commissioner Boisvert spoke of the amount of work that has gone into the proposed amendments. Without the rules being codified, the Police and the Commission have their hands tied with regard to enforcement.

Commissioner Tenhave commented there is the need to recognize that people have a different opinion and approach. That should all be reviewed. Mr. Hoyer suggested, at the least, information should be provided as to the associated cost.

### **COMMISSIONER COMMENTS**

Commissioner Perry reminded users of the trails that it is hunting season and hunter orange clothing is strongly advised. He urged residents not to put out bird feeders noting bear sightings.

Commissioner Swisher spoke of an upcoming training offered through the UNH Cooperative Extension, which he is participating in; Speaking for Wildlife.

### **ADJOURNMENT**

**MOTION BY COMMISSIONER PERRY TO ADJOURN**

**MOTION SECONDED BY COMMISSIONER GLENN**

**MOTION CARRIED**

**7-0-0**

The October 21, 2019 meeting of the Merrimack Conservation Commission was adjourned at 7:57 p.m.

Submitted by Dawn MacMillan