



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK CONSERVATION COMMISSION OCTOBER 5, 2015

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, October 5, 2015 at 6:35 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

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

Members of the Commission Absent: Kristi Bradshaw, Alternate

Also in Attendance: Jeff Littleton, Moosewood Ecological
Ken Clinton, Meridian Land Services

Kristi Bradshaw, Alternate Member, was excused.

Chairman Tenhave noted a Special Town Council meeting/workshop has been scheduled for Thursday, October 8th with Kinder Morgan. The meeting begins at 7:00 p.m. in the Matthew Thornton Room. Councilor Vaillancourt noted the intent of the meeting is to discuss the Amherst Alternate Route 1.

There are currently open positions on the Commission. Individuals interested in serving in this capacity should contact Becky Thompson in the Town Manager's Office.

PUBLIC COMMENT - None

APPOINTMENTS

1. Environmental Impact Study for Horse Hill Nature Preserve (HHNP) and Gilmore Hill Memorial Forest

Commission to receive the final report for the Environmental Impact Study it contracted with Moosewood Ecological. Jeff Littleton to provide an overview of the report and answer questions of the Commission.

Jeff Littleton, Moosewood Ecological, provided a PowerPoint presentation (can be viewed [here](#)). Mr. Littleton spoke of having looked at three main properties, beginning in March. The intent of the presentation was to give a brief update on findings and answer any questions and/or incorporate into the process any comments the Commission may have.

The presentation covered the HHNP, Gilmore Hill Memorial Forest and Merrimack Village District (MVD). The basic objective was to identify the wildlife habitats that are on these properties, if there are any exemplary or rare natural communities, map and evaluate the wetlands (not jurisdictional wetland delineations; wetland boundaries that were mapped from aerial photography and field checked), map soils and aquifers utilizing existing data, and to inventory wildlife and plants located on the property.

Mr. Littleton noted, for each of the properties, he would cover soil resources, water resource, wildlife and plant resources.

Soil Resources - the study looked at the property from the perspective of productive farmland soils, productive forest soils (grouped into hardwood and softwood soils), hydric soils (associated with wetlands), and steep slopes. The information stems from existing data from the U.S.D.A. The Natural Resource Conservation Service (NRCS) map soils for the State of New Hampshire. Areas delineated as 1A and 1B soils are really good for growing hardwoods and the 1C for softwoods.

Water Resources - the study looked at wetlands, streams, and stratified drift aquifers.

When talking about wetland evaluations in general, these are the various functional values that are assessed. This is what is used in the New Hampshire Method. This methodology was developed for the State of New Hampshire and it looks at these 12 different attributes: ecological integrity, wetland-dependent wildlife habitat, fish & aquatic life habitat, scenic quality, educational potential, wetland-based recreation, flood storage, groundwater recharge, sediment trapping, nutrient trapping/retention/transformation, shoreline anchoring, and noteworthiness.

MVD property - roughly 70 acres and has a large wetland system (aquifer system). It is basically half forest and half wetland. Naticook Brook is part of the property (40' either side of the brook). Farmlands of local significance; there are roughly 14 acres on the northwest portion of the property. Mr. Littleton displayed a map that identified the area of 1B, which is roughly 13.5 acres on this property. The area identified as 1C (greenish color) is roughly 30 acres, and has a great deal of White Pine on it. About 45 acres of the property has been mapped as being really productive forest soils. In terms of hydric soils, this is basically where the wetland is. The area is roughly 18.5 acres. In terms of steep slopes (greater than 15 degrees in slope), this equates to roughly 7 acres of the property (southeastern and southern portions as well as along Naticook Brook).

A slide was displayed outlining the wetland and stratified drift aquifer (high yielding; community water supply, data suggests it is greater than 4,000 sq. ft./day water running through there (Transmissivity Rate)). The wetland is a highly diverse wetland; mostly scrub shrub swamp. However, there is an area of emergent marsh. What is really interesting is the seasonally flooded Red Maple Swamp. There is some open water on the northeastern end. Each one of these different habitats adds diversity in terms of plant and wildlife community.

This property ranked really high for sediment trapping; good for maintaining good water quality. It had a moderate rating for ecological integrity because of the number of homes around it. It also came up moderate for wildlife habitat. The diversity of those different wetland classes gave it that good flood storage and nutrient transformation. Good at helping to maintain water quality, and pretty good for wildlife habitat as well.

Looking at the property from a wildlife habitat perspective, this area has particular forests; Hemlock Hardwood Pine forest ecosystem made up mainly of Hemlock, Beech, Oak, Pine, a little bit of White Oak and Hickory; something more reminiscent of the southwestern part of the State.

Along the utility right-of-way is a shrubland habitat; not a very abundant type of habitat. In each of these different habitats, you will have a different suite of plants and animals that will utilize them. The turtle nesting habitat (depicted in gray), has very sandy soils, which are really good for turtles nesting. The scrub shrub habitat, shrubland or early successional habitat is a limited type of habitat, and there are certain species like the New England Cottontail that need this particular habitat as well as snakes.

Invasives on the property include a variety of the Bush Honeysuckles, Japanese Barberry, Buckthorn and Bittersweet. This is both in the utility right-of-way as well as around the wetland itself; typical place to find invasives (areas that are highly disturbed/managed).

There is one rare species that has been previously documented; Hognose Snake. He suspects it is still around there as the habitat is perfect for it. During his survey he identified two watched species (not rare/endangered); Dwarf Chestnut Oak and Forest Licorice Bedstraw. There is definitely potential for Spotted Turtle (Gilmore Hill Memorial Forest has a previous documentation). Wood turtles are a potential as well. It is a species of concern, not listed in the State. Another potential species is Black Racer (threatened).

Gilmore Hill Memorial Forest - the white area denoted on the slide is the area that was previously used for sand & gravel excavation; highly disturbed system, and likely why the wetlands are there. Mr. Littleton highlighted the

steep slope on the left hand side of the slide noting it is a ridgeline system that continues through the utility right-of-way and curves up and to the northwest. That forest community there is very significant.

About a third of the property has been mapped as being really good farmland soils. Productive forest soils make up roughly 1/3 of the property (really good for hardwoods; Appalachian Oaks and Hickory). Steep slopes make up about 50% of property. There were no hydric soils previously mapped, but there are wetlands out there. The wetland systems in there are very complicated.

Mr. Littleton highlighted the area of the stratified drift aquifer (main one associated with MVD). There are two wetland systems associated with this property. To really understand the wetlands you would need to get a Soil Scientist or Wetland Scientist to go in and delineate them. It is complicated because of the past disturbance of removing material out of that area. At first, it looks like one large long one, but it is actually not, and may be actually more than 2. The ponded area is dry now, but water stays there for a substantial time. You do have wetland vegetation back in there (tallest being Purple Loosestrife). Mr. Littleton stated his assumption parts of that would be considered jurisdictional wetlands, given the hydrology and plants he witnessed. He noted he did not dig soil pits, which is where a certified wetland scientist or a soil scientist would come in.

Mr. Littleton stated the wetlands on the property have high functional value for ecological integrity and sediment trapping; ecological integrity looks at health. The property came up moderate for wildlife habitat. The main types of wetlands on the property are more shrub but also a little bit of an emergent marsh so you do get a little bit of gradation in there.

Habitat on this property is not hugely diverse. With the two wetland systems, the shrubland habitat associated with the utility right-of-way, again with turtle nesting habitat all around where the ponded area is, but there is a lot of open sandy habitat in there.

It is an Appalachian Oak Pine forest community in there; a lot of Oak and Hickory. There is a lot of hard mass for squirrels, small mammals, turkey, deer, bear, etc.

There is one rare (documented years ago) natural community; Rich Appalachian Oak Rocky Woods. There are quite a few invasives; Honeysuckle, Burning Bush, Bittersweet, Barberry, Autumn Olive, Purple Loosestrife both within the managed area as well as up on the hillside, and in the utility right-of-way.

One thing that makes this property extremely significant is the sheer number of rare species that are on an area as small as 30 acres. As documented from the past and through the field exercises, 16 rare species and 3 species that are on the watch list. Spotted Turtle (State threatened) was previously identified and documented on the property. There were 15 different rare plants: Bashful Club Sedge, Downy False Foxglove, Sky-drop Aster, Licorice Goldenrod, Waxy-leaved Meadow-Rue, Early Buttercup, Blunt-leaved Woodsia, Hoary Mountain Mint, Rock Emoji, Reflex Sedge, Dryland Sedge (State endangered), and also a Hairy Bedstraw, which is State endangered, and was previously known to be extinct in New Hampshire. This is a revived species.

State threatened species include the Prostrate Ticktrefoil, Smooth Fork Chicweed, Sicklepod, and then there are three watched species, similar to the MVD property; Dwarf Chestnut Oak, Forest Licorice Bedstraw and then a Fern-leaved False Foxglove, which are distributed throughout the property in a variety of abundance depending upon the species.

With this property just like the MVD property, there is a potential for Black Racer and Hognose snake; strong potential for Hognose snake since it was previously documented on the property. There is also the potential for the Wood Turtle.

Commissioner Perry commented on the guidance Mr. Littleton was given with regard to going off the boundaries in areas where communities were identified, and if that was the case with any of the sightings. Mr. Littleton stated the Rich Appalachian Oak Rocky Woods community continues past the right-of-way (not sure how far). Obviously in the powerline right-of-way it has been disturbed and continues for management purposes for the utility right-of-way. The rare species are distributed all throughout.

The **HHNP** is roughly 594 acres. There is quite a bit of productive farmland soils on the property (roughly 60% of the property). Roughly 76% of the property has really productive forest soils. Essentially only 5 acres is really good for Pine (in the center). That area is inundated by water from a large beaver system that has been growing over the years. The property is dominated by Oak. It is sort of an Appalachian Oak Pine forest ecosystem that is

out there with a variety of different communities that are associated with it. Mr. Littleton commented some are very young at this point based on past timber operations.

The U.S.D.A. says roughly 23% of the property has hydric soils; one is called very poorly drained, which are usually 100% associated with wetlands and then there is poor drainage. Sometimes it is a jurisdictional wetland and sometimes it is not. Steep slopes; equates to about 78 acres of the property (15-25% of property).

Mr. Littleton commented, with regard to water resources, as he did with all of the other properties, he began with aerial photography to determine where wetlands are, understanding that data is old. Then he field checked it. There are roughly 42 wetlands on the property (1/4 of the property). Not much in the way of aquifers; small amount in northeastern area of property. Essentially there are three perennial streams associated with the property; Lastowka Pond, White Pine Swamp, and the stream that flows out of the marsh by Naticook in the southeast corner. There are a lot of other intermittent and ephemeral drainage all throughout the property. Some were connecting vernal pools only at high flow or when all of the snow melts and they flow out and connect together only for a short period of time.

All 42 wetlands were evaluated. The report has numbers associated with each. Overall most scored really high for ecological integrity, wildlife habitat, and sediment trapping. Each of the wetlands has really small watersheds, which plays into the evaluation. Overall they ranked moderate for the fish & aquatic wildlife habitat, scenic and educational values, recreation, and then nutrient transformation. Most of the wetlands provide habitat for rare species.

Mr. Littleton displayed a map of the wildlife habitats. Of the smaller wetlands 24 vernal pools were confirmed and 11 more potential. Obligate or secondary species were not documented. That does not mean some of these would not have them. Some of the most significant wetlands include the White Pine Swamp, which is a large wetland system; huge wetland system, open water, Cattail habitat, and floating peat mats on the back side.

On Long Pond, there are 16 nests available for Blue Herons. It is a functioning Heroner. This is at least the second year straight with Osprey nesting on the property. Naticook Marsh is a large interesting wetland complex with a lot of diversity in habitat types. Mr. Littleton commented when he first studied this property he witnessed Least Bittern, not a rare species but something that is not really common. Lastowka Pond is very significant. At the beginning of the season water snakes were everywhere out there and throughout the vernal pools. Rare species are using all of the wetlands and many of the vernal pools throughout the season. He noted markings on the map depicting spotted salamander egg mass and a communal egg deposit site for wood frogs, which were the primary indicators for vernal pools. Mr. Littleton spoke of having seen beavers going from the impoundment to the vernal pool adjacent to it where he saw dozens of painted turtles, water snakes (all around the property), a good deal of Ribbon Snakes, which is a species of concern in the State. Other habitats include turtle nesting areas mainly associated with the utility right-of-way and the more cleared areas. A snapping turtle nest was seen as was a nest for Blanding's Turtles (rare and documented).

The basic forest type on the property is the Appalachian Oak Pine Forest; some very young. There are some big White Pines that look to be about 80-100 years old.

The shrubland habitat and the power line right-of-way can be significant for a variety of wildlife species. There is one State endangered natural community on the property (documented previously); Rich Appalachia Oak Rocky Woods. In the right-of-way and in some wetlands not associated with the right-of-way, there is Purple Loosestrife and Black Swallow Wort, which was not documented previously. Bush Honeysuckle and Autumn Olive are out there as well. He suspects there are a few additional, and commented with managed systems and edge habitat where you have the forest that just stops, it is a great place for birds.

In terms of rare species, a total of 7 were found on the property; Blanding's Turtles (endangered) and Spotted Turtles (threatened). Documented was both distribution and habitat use on the property. There are three different State endangered plants; Downy False Foxglove, Sky-drop Aster, and Blunt Leaved Woodsia. There are two State threatened; Prostate Ticktrefoil, Hairy Stargrass, and a couple of watched; Forest Licorice Bedstraw and a Rattlesnake Hawkweed. There is potential to find rare snakes using the property as well, given the habitat is right for them.

Chairman Tenhave noted, as the reports are put together, Mr. Littleton will also touch on impacts. Commissioner Boisvert remarked, to relate this to the proposed Northeast Energy Direct (NED) Pipeline, it seems like some of

the sandy soils that are in the right-of-ways are harboring some rare species. Mr. Littleton responded a lot of the turtles are nesting out there. They move around a lot, particularly the Blanding's turtles.

When asked how the telemetry worked out, Mr. Little responded it worked out very well. One of the males they tagged left the property for a little while. The female stayed around. The Spotted Turtles don't move a whole lot. They did not observe them nesting in the utility right-of-way, but that doesn't mean they are not there because the habitat they were found in was fairly close.

Mr. Ken Clinton, Meridian Land Services, questioned if Mr. Littleton looked into any habitat for the Northern Long Eared Bat, and was told he had not. Mr. Littleton pointed out that is sort of an expensive endeavor to get out with the sophisticated equipment. There are not a lot of people that have that type of equipment that can pick up that *Myotis* from other *Myotis*. Mr. Clinton stated the Northern Long Eared Bat has been identified as a threatened species by the Federal Government. In projects his company is doing now they have to take that into account. He commented he was interested in knowing if Mr. Littleton had some history and experience in that because they have not yet. Mr. Littleton responded Laura Deming, Senior Biologist, Audubon Society, does do some bat surveys, but they are more basic. The NRCS put a hold on forestry for landowners that were going through their program until August 15th. He commented he was called recently about a program near Loudon where NHDES required a bat survey. He has been getting a lot more calls about them, but does not have that type of equipment.

Mr. Clinton stated his belief if you contact the Natural Heritage Bureau (NHB) they have some known Hibernacula sites in the State, and if you are within a ¼ mile, your project is tagged as being one you need a study on or at least you need to start following some of the guidelines for restrictions on timber cut during the gestation period (June and July). Mr. Littleton remarked that is why NRCS said August 15th.

Mr. Littleton requested any comments/questions be forwarded to him as soon as possible. He would like to wrap the reports up this week.

Chairman Tenhave questioned if reports have been provided to the NHB. Mr. Littleton stated his understanding the documentation has been submitted. Chairman Tenhave commented on the importance of ensuring that is logged particularly given the proposed NED pipeline project.

Chairman Tenhave pointed out one of the reports referenced Bentonite. Mr. Littleton stated that was information gained through research. Chairman Tenhave questioned if there was background on the research that could be provided as he would like to incorporate that into comments the Commission will be providing to the Federal Energy Regulatory Commission (FERC). Mr. Littleton stated he could provide literature he believes would be helpful.

Councilor Vaillancourt thanked Mr. Littleton for the work performed, and stated her pleasure with the level of information gained. She remarked it is safe to say that during the construction period of a pipeline there would be quite a disruption. There will be cutting of trees and the creation of a new right-of-way that would have to be maintained. There would be the potential for loss of trees, plants, etc. during construction and possibly permanently, and with regard to the aquifer there are implications for damage to our drinking water. She feels there is the potential for permanent damage to the aquifer as well. She spoke of wildlife scattering during construction and the potential some may not come back. Councilor Vaillancourt questioned if her impression is overstretching.

Mr. Littleton responded maybe. He stated his opinion one of the main concerns during construction would be the use of siltation fences to help prevent sediment from entering into wetlands; where they are located in terms of various habitats such as vernal pools. The animals have to migrate from their upland habitats to them. If you put up siltation fences you can restrict animals from moving from their winter habitat into their spring habitat where they breed and lay their eggs and then leave, and depending on the time at which they are put in, could prevent them from making their way back. The same would apply with turtles. They are hanging out in the wetlands, will come out and sun, and then will make their way to a variety of these vernal pools to feed, and back to the power line right-of-way to lay their eggs, etc. Depending on the time of year construction takes place, it could be very disruptive and destructive to some of these species.

Chairman Tenhave noted the current proposed route takes it just above the power line easement. You can see the numerous wetlands, vernal pools, etc. they would be running right through if they do that. Mr. Littleton stated some of them are extremely significant for a variety of different species, some of which are rare. During the radio

telemetry they had 4 turtles they were following around, and the Blanding's just tend to move an awful lot. He commented he also heard from a landowner around the area that there has been some along Amherst Road that have been killed by vehicular action. He saw some close to the HHNP, but in another wetland, heading southwest along Amherst Road.

Mr. Littleton stated he will check to ensure all data has been submitted to the NHB. Chairman Tenhave commented the last time they reported pulling data was June.

STATUTORY/ADVISORY BUSINESS

1. Daniel Higginson of Meridian Land Services, Inc. (Applicant) and Vasilios Gakis (Owner)

Review for recommendation to the Planning Board of a 2-lot minor subdivision. The parcels are located at 17 Beaver Brook Road in the R-1 (Residential) and Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 6C, Lot 406.

Ken Clinton, Meridian Land Services, provided the Commission with copies of a two-lot subdivision plan. The existing property is about 76 acres off of Patten Road. Highlighted on the plan was the 10-acre lot that is being subdivided.

Mr. Clinton pointed out the small lots to the north and east of the 10-acre lot, and commented at one point in time not only was the north side of Patten Road subdivided like that, and what you see developed, but the entire 76 acres was checker boarded with less than 1 acre lots with a road system all the way through. When you look at the entire 76 acres, if removing a 10-acre lot, about 50 acres is wetland.

Mr. Gakis has a home on the property, and is interested in creating a single house lot off of Patten Road. Being unsure of what the area has for uplands and if the uplands were suitable for a residence, septic, driveway, etc., he hired Meridian to perform a survey, which concluded they did not have the 100,000 sq. ft. of contiguous area that is required by the R-1 (Residential) zone (100,000 contiguous upland plus 250' of frontage). The Applicant went before the Zoning Board of Adjustment (ZBA) seeking a variance noting although the property did not have the 100,000 sq. ft. of contiguous upland, it has over 100,000 sq. ft. on the lot. The amount of contiguous is in the 80,000 sq. ft. range. When you look at what is necessary to support the house, well, driveway, etc., especially given the fact that all of the other lots surrounding it have full enjoyment when some are as low as 30,000 sq. ft. gross, the ZBA saw fit to grant the variance.

The proposal is for a 10-acre lot. Mr. Clinton stated his understanding one of the abutters is interested in purchasing the lot so they can add this to their land to protect their back yard area, and then be able to put this in current use. Mr. Clinton remarked although that is his understanding of the scenario at this time, he cannot guarantee it will happen like that.

Mr. Clinton highlighted the area on the map where, if developed, a driveway would be placed (former right-of-way off of Patten Road to a building area). They have pre-designed a leach field and have indicated a typical house. There are no impacts to wetland buffer, building setbacks, etc. A test pit in the area has already proven the soils are sufficient to design and install a four-bedroom leach field.

Chairman Tenhave asked, with the ZBA approval, etc., is there anything else that precludes the remaining lot from being subdivided. Mr. Clinton responded practical access. Out of the 66 remaining about 50 acres are wet, leaving about 16 acres of upland. That upland is inaccessible. It is along the periphery in the southern corners. There is a little bit of upland down in the southwest corner and a little bit larger area of upland in the southeast corner. However, you can't necessarily get from the north half where the roads stub down into the property to the southerly half. The southerly areas have been developed by condominiums with a fractional share of open space.

Chairman Tenhave clarified his question was more for conservation purposes. Mr. Clinton stated he could not speak for Mr. Gakis. He did ask if there was conservation potential there. Obviously the answer is yes. He commented, although he cannot speak for Mr. Gakis, once he makes conveyance of this lot, assuming approval is achieved at the Planning Board, he has commented he would be willing to talk about some level of easement. Chairman Tenhave commented the Commission is looking at potential projects. Although this property is not in the target zone, it is one the Commission is keeping an eye on.

Chairman Tenhave stated the Commission was being asked to make a recommendation to the Planning Board with regard to the two-lot subdivision. Commissioner Perry noted in the absence of proposed development, the typical areas of concern for the Commission, e.g., fertilizer, salt, etc. are not present.

Chairman Tenhave commented on identification of some aspect of the parcel through the symbol -.-, however, that is not listed on the legend. Mr. Clinton stated his belief that symbol is through aerial photography, and would perhaps indicate some level of seasonal perineal stream.

Commissioner Perry noted the two different delineation lines on the right-of-way. Mr. Clinton stated there were right-of-ways that were plotted for all of the tiny subdivision lots. Because some of the residents were sold lots adjacent to those right-of-ways, although the public doesn't have a right to travel the right-of-way, the direct abutter has an easement right to use that for access. While Patten Road itself is a public right-of-way, some of the lines along the right-of-ways are either property lines or technically an easement.

It will be relayed to the Planning Board the Commission has no concerns with the proposed sub-division.

2. North View Homes & Development, Inc. (Applicant) and Elaine and Walter Domian (Owners)

Review for recommendation to the Planning Board of an application for a 2-lot minor subdivision. The parcel is located at 15 Brenda Lane in the R-1 (Residential) and Aquifer Conservation and Flood Hazard Conservation Districts and Shoreland Protection Area. Tax Map 6D, Lot 037.

Chairman Tenhave recused himself and stepped down.

Vice Chairman Caron presided.

Ken Clinton, Meridian Land Services, stated the purpose of the project is to create a residential lot out of a 4.5 acre parcel in a well-established neighborhood (Brenda Lane). Currently the parcel is considered an R-1 zone. However, because there is public water in Brenda Lane and proposed sewer to be extended off of Bedford Road up Pearson Road, through this property onto Brenda Lane to then extend further north, the parcel can then qualify as an R-4 zone. The proposed lot Tax Map 6D, Lot 037-1, as an R-4 lot, requires 40,000 sq. ft. gross, 25,000 sq. ft. of that to be upland, and that is what the proposed project has.

The plan provided outlined the building envelope with all of the setbacks, floodplain, and delineated wetland. On the east side of the proposed lot adjacent to Baboosic Brook is a fair amount of wetlands. Although understood to be at least 1 or 2 small upland pockets in there, that has been discounted and the entirety of the area called wetlands. It was not worth micro flagging an area once it was known to be an area that would not be considered disturbed or used in any other way.

The sewer line has been extended from Bedford Road up Pearson to a subdivision that was before the Commission a little over a year ago called the Cota subdivision. That project had 2 short cul-de-sacs; one named Hamilton Court and the other Barbie Court. Hamilton Court is all built out. The sewer extends all the way through to Hamilton Court. Another section of that sewer has been approved by the Town and the State. This would be the final section of approval. Plans are ready to submit to both Waste Water Treatment as well as New Hampshire Department of Environmental Services (NHDES).

There is a siphon (two 6" pipes) that will cross Baboosic Brook over to Brenda Lane and head north from there. The siphon and the sewer design is not necessarily part of the sub-division. The sub-division is dependent and conditioned upon the sewer being approved and constructed. The lot could not exist otherwise. However, the sewer design goes through a separate process than a subdivision. The sewer design doesn't need Planning Board approval, and it has its own system and permits.

Mr. Clinton reiterated the lot cannot exist without both the water that is in the road and sewer itself. It is reasonable that the Planning Board could grant approval conditioned upon no building permit would be allowed unless the sewer line was actually installed.

Mr. Clinton commented on the neighboring properties being relatively the same in comparison to size, however they have septic systems. The proposed lot, with sewer, will be nearly equal to many of the adjacent lots, but won't have the leach field impact. Mr. Clinton commented with the sewer extension, everyone on that route will, as he understands, have a certain time period before being required to connect to sewer. From an environmental

standpoint, this sewer extension project will have a much larger positive environmental impact than just creating one single lot in this location.

The rest of the land is built upon. The Domians reside there, have a paved driveway. They have a pool in the front yard with a shed as opposed to the back yard just because of the depth of where their house is off the road, and they have a leach field in the back.

Vice Chairman Caron questioned what the acreage would be for each individual lot, and was told the proposed lot would be 1.3 acres and the remainder of the larger lot 3.3 acres.

Commissioner Boisvert asked for clarification the proposed sewer easement would go through part of the remaining lot. Mr. Clinton stated that to be correct, and noted it crisscrosses the line. Mr. Clinton stated there to be two stages of this approval for the sewer; the design itself, which means the sewer is built to the right requirements, e.g., capacity, location, elevations, to pick up as many of the existing homes in the vicinity as possible. Then there is a construction aspect. When addressing the construction aspect, the plan will be back before the Commission because there is a crossing of Baboosic Brook, which could be done several different ways, e.g., directional boring, cut and cover (more impactful to wetlands). There will be a wetlands impact to some degree to allow the crossing to occur. That exact impact will not be known until a construction company is selected and the method of the desired construction is known. When asked about the timetable for the construction process, Mr. Clinton commented he would not be surprised if late next year is reasonable for construction. It couldn't be any sooner than that.

Commissioner Perry spoke of having spent a great deal of time at Baboosic Brook over the summer and witnessing the dumping of yard waste that is occurring behind the houses along the brook. That is his only reservation. Mr. Clinton noted there is clearly a 15-20' ridge right in the back of the high plateau where the house would be. From an environmental standpoint, if you put this in context, if you can have 1 more lot that does that for the benefit of the municipal sewer that would be extended he believes the offset clearly outweighs the activity.

Vice Chairman Caron asked and was informed at this point there is no proposed house on this lot. Mr. Clinton stated it is a vacant lot that could be developed, sold, etc. The easement reserves the right to put that sewer in.

Mr. Clinton commented any development on the house lot would require a separate Shoreland permit because it is well within the 250' setback. Anything that happens on that lot; driveway, house, sewer, all of those improvements, have to be part of a Shoreland permit to NHDES as well.

Councilor Vaillancourt commented this project is similar to the last in that nothing is being proposed that would be an area of concern for the Commission. She expressed an interest in learning more about the process for the sewer installation crossing the brook.

Mr. Clinton noted the subdivision that created Brenda Lane was done in 1976. Back then there were a lot less environmental constraints. Existing lots such as those on Woodhaven Circle are small and right up against the wetlands.

Vice Chairman Caron questioned the size of Tax Map 6D, Lot 47-12, and was told that is part of the open space lot. It is approximately 18 acres off the back side of Barbie and Hamilton Court.

The Planning Board will be notified the Commission has no concerns with the proposed sub-division, with the understanding the Applicant will be back before the Commission with the wetlands permit.

Vice Chairman Caron stepped down and Chairman Tenhave presided.

OLD BUSINESS

1. NED Pipeline

Commission to have a general discussion on the NED project and any immediate actions it may wish to take.
Commission to also review any last comments it wishes to make to the FERC prior to the closing of the Scoping comment period.

Chairman Tenhave reiterated a Special Town Council/Workshop meeting has been scheduled for Thursday, October 8th with Kinder Morgan. The meeting begins at 7:00 p.m. in the Matthew Thornton Room.

Councilor Vaillancourt informed the Commission the intent of the meeting is to discuss the Amherst Alternative Route 1 and associated impacts. There are more wellheads as well as businesses that would be impacted with this proposed route than was the case with the route proposed previously. Since the time this alternate route was published, the Town Manager has contacted all affected businesses along Continental (intersection with 101A). Several of the businesses have expressed great concerns. Councilor Vaillancourt stated her expectation business owners would be in attendance at the meeting to express those concerns, one of which could be the fact they were contacted by the Town and not Kinder Morgan.

Councilor Vaillancourt mentioned, at the Council's meeting of September 24th, the Council signed and forwarded to the FERC a letter identifying concerns pertaining to the proposed metering station. She noted Deborah Huffman, resident, worked with the Town Manager and counsel, and was instrumental in crafting a really comprehensive letter with the concerns as well as the questions the Town wishes Kinder Morgan to address.

During the Council's discussion of meeting with Kinder Morgan, the letter to the Commission from Kinder Morgan requesting a meeting to discuss mitigation plans was brought up. Assistant Town Manager/Finance Director, Paul Micali stated his understanding Kinder Morgan will not be meeting with any conservation commissions even though they formally offered that opportunity. It appears pushback from some conservation commissions has resulted in that decision.

Chairman Tenhave noted Councilor Harrington, Chairman, Town Council, has requested he attend the meeting or send a representative. As he has the ability to attend, he questioned the will of the Commission. The consensus was for Chairman Tenhave to represent the Commission. Chairman Harrington intends to identify all of the issues the Town has with the alternative route, but will allow Chairman Tenhave to speak to anything she does not cover. Councilor Vaillancourt noted the School District, which is highly impacted by the proposed alternate route would have representation at the meeting as would the MVD.

Chairman Tenhave spoke of the draft letter addressed to the FERC providing additional comments. When asked about the timeframe for submission, Chairman Tenhave stated the desire to complete the letter by Thursday. Councilor Vaillancourt stated the deadline to be October 15th.

Chairman Tenhave questioned if anyone else from the Commission or private property owner has actually gone through all of the reports and picked out pages and sections to say we like this, we don't like that. He commented he has not seen any of that type of activity. Commissioner Perry spoke of having seen some letters that pick out specific sections of the report. He commented the draft prepared by the Chairman covers more areas than he has seen in any other single letter. What he has seen is individuals addressing areas that affect them.

Commissioner Perry spoke of having read about the extraction of gas from rock and noted one of the concerns raised is the fact it can be radioactive. That changes as the shale shifts and they extract using different methods in different parts of the field and different rock. The radioactive level of the gas can change. It is not yet known what, if any, unintended consequence will result.

Councilor Vaillancourt commented the pipe could potentially be used for something other than natural gas. She remarked we have been given no guarantees and Kinder Morgan skirts around the issue all the time. If in fact that happens, she would want to understand the chemicals that would be involved, potentials for leaks, effects of leaks, e.g., water, flora, etc. Chairman Tenhave suggested if they made a statement that they are leaving the door open to such a possibility, the Commission could comment to that. Councilor Vaillancourt stated it is just well known industry practice, but they won't directly answer that question. Chairman Tenhave questioned if there is a reference available to indicate where such activity has in fact taken place. Councilor Vaillancourt stated she could provide that information. Councilor Vaillancourt commented Kinder Morgan will likely respond that they are in the transmission business, where it comes from isn't up to them. Technically it wouldn't be them. Chairman Tenhave responded they would be transmitting a different medium.

Commissioner Glenn pointed out, at the scoping meeting conducted in Rindge, Tad Putney, representing the New Hampshire Municipal Pipeline Coalition, requested they restrict the easement to only allow natural gas in the pipes. Chairman Tenhave stated the Commission could certainly ask that.

Chairman Tenhave questioned if there were examples of concerns related to radioactivity that could be cited. Commissioner Perry stated he would locate the articles and forward them along.

Chairman Tenhave mentioned a point made by Mr. Littleton relative to steep slopes in Gilmore Hill. He will look for language to add to the letter regarding that as the condition would introduce a different sort of construction method and concern. Councilor Vaillancourt commented on being contacted earlier in the week by Bob L'Heureux, former State Representative. Mr. L'Heureux had asked if anyone has addressed the lock on the Merrimack River for historical significance. He stated it to be located behind Anheuser Busch, although he did not know of the exact location. She commented on having been pleased to see the draft letter Chairman Tenhave prepared addressing that very issue, and being able to notify Mr. L'Heureux that the Commission would address it in its comments.

Commissioner Glenn commented on having attended the scoping meeting conducted in Rindge, NH, and remarked it was not as well attended as she had expected, perhaps due to weather conditions. She noted the attendance of representatives from both Senator Shaheen's Office and Congresswoman Annie Kuster's Office in addition to two Executive Councilors, and a few other State Representatives. When asked if the representatives for Senator Shaheen and Governor Kuster spoke, she stated they did. When asked if they expressed a particular point of view, Commissioner Glenn remarked there were no positions stated, just comments regarding constituent concerns. Every other speaker stated opposition.

NEW BUSINESS

1. Update on Land Acquisition Activities

Commission to discuss land acquisition activities and take any necessary action.

Chairman Tenhave addressed the viewing audience when stating the Commission has been working diligently to put together a land acquisition involving approximately 140 acres of land. As of this date, all parties have signed the Purchase & Sales Agreement at the agreed upon price offered by the Commission. The intent is to schedule a Public Hearing for the Commission's meeting of October 19th. The Commission will be required to take a final vote to move it to the Town Council. The Town Council will place the item on its agenda for October 22, 2015. It was noted the Town Council Chairman and Vice Chairman have discussed the Council conducting a separate Public Hearing. Although within their power to do, it is not required by law. The Commission is required by law to conduct a Public Hearing. Chairman Tenhave stated he would be in attendance at the Town Council meeting to present the land purchase. By law, the Council needs to approve the purchase for the Town as the Town then takes on responsibility for the land.

Until the property is transferred, discussions and negotiations that occurred around the sale will remain in sealed non-public minutes. Once the transfer is complete the minutes will be unsealed, as appropriate.

Chairman Tenhave mentioned of the four parcels the Commission was looking to acquire, 3 were owned by the Conservancy and a 4th by a different LLC. There were some issues with the Title in that it is not the cleanest title as things were done a long time ago, and they went through trusts, etc. The Town's attorney is comfortable enough because of the intent to lock the property away forever, and knowing we won't have to worry about re-selling, etc. That will likely be an item of discussion for the Council. It was noted the negotiations were around an all or nothing deal. The purchase will expand Grater Woods considerably, and get the Commission on the path to meeting what was put in the 2013 Town Master Plan and what has been a focus area for the Commission. Commissioner Perry remarked when he first joined the Friends of Grater Woods Committee about 17 years ago, purchase of this property was already being talked about.

2. Easement for Bean Road Bridge Replacement Project

Commission to update the public and confirm its recent activities related to a request for an easement with the Town of Merrimack for a position of its property that abuts this bridge project. Tax Map 6B, Lot 87-99.

Chairman Tenhave stated the Commission has already addressed the wetland permit, and forwarded recommendation(s) to NHDES. Because the project required an easement across Conservation owned property, the Commission negotiated an easement to allow that bridge to go forward. It is a utility easement as well as an easement for the actual road surface, bridge area, etc. The easement was negotiated within the terms discussed at the Commission's non-public meeting of August 17, 2015. A better price than what was originally believed could be was achieved. The Commission received approximately \$1,500.

MOTION BY COMMISSIONER TENHAVE TO CONFIRM THE COMMISSION'S NON-PUBLIC VOTE OF AUGUST 17, 2015 TO ACCEPT THE EASEMENT FOR THE BEAN ROAD BRIDGE REPLACEMENT PROJECT

MOTION SECONDED BY MEMBER GLENN
MOTION CARRIED
5-0-1

Councilor Vaillancourt Abstained

Chairman Tenhave pointed out Councilor Vaillancourt, as a member of the Town Council, is technically the "Town" as well. Therefore, she did not participate in any of the negotiations or discussions on this item.

OTHER BUSINESS

- Watson Park Kiosk - Update

Chairman Tenhave spoke of having visited the area, and noted the kiosk is partially complete. Coordination with the artist, Town, etc. has required some time.

- HHNP Parking Lot - Update

Chairman Tenhave stated Kyle Fox, Deputy Director, Public Works Department, is aware the delineation is complete. He has requested, but has not yet received an update. The preliminary review indicated there is more than sufficient land that is dry and outside of the wetland buffer to do something there.

- LCIP Report for Wasserman Conservation Area

Chairman Tenhave stated the intent to forward the report to Steve Walker, Conservation Land Stewardship Program, along with the map (inclusive of GPS markings) indicating the area walked. The LCIP requirement also states the need for the report to be passed along to the governing body. It will be forwarded to the Town Council.

Vice Chairman Caron spoke of the increased ATV activity in the area. He and Chairman Tenhave will follow up with the Police Department.

- 2016 Proposed Calendar

Chairman Tenhave pointed out the 2016 calendar is very similar to the 2015 calendar with the exception of, in 2015, the Commission conducted two meetings in January and one in February as opposed to one meeting in January and two meetings in February as proposed for 2016. The change is dictated by holidays.

The last meeting date listed should be corrected to indicate 2016.

The consensus of the Commission was to move forward with the proposed calendar.

- Beaver Policy and Water Control Activities

Commissioner Perry commented the Beaver Fact Sheet distributed to the Commission incorporates changes requested to date, and barring any further changes, will be the final version. Chairman Tenhave questioned if the desire/intent was to utilize the Fact Sheet as the policy as well. Commissioner Perry stated the Fact Sheet will be one of the items provided citizens when presenting a complaint or posing a question. Work continues on the policy.

Commissioner Perry spoke of another device having been installed on Mast Road. There was a lot of water backup in the area, which was encroaching on the road and causing issues. When asked if the Town was on board, Commissioner Perry responded seemingly yes. The ball is in his court at the moment to get the policy language complete. When asked if the Commission would be installing devices this year, Commissioner Perry stated he is waiting to hear back regarding a timeframe for the installation of one additional device and assessments of three locations.

Councilor Vaillancourt questioned if the Fact Sheet could be placed online, and was told, in addition to the policy, when complete, the Fact Sheet and the area assessment form will be posted. There is a desire to adjust the assessment form to be more user friendly (less technical) before posting. Commissioner Glenn questioned if the report received from GZA GeoEnvironmental would be placed online. Chairman Tenhave stated it has not yet

been posted to the Commission's website. Commissioner Perry stated his belief it has been posted on the Town's website.

Vice Chairman Caron noted where the Loop Trail goes by Lastowka Pond, there were two big poplar trees at the border of the trail that are now gone.

- New Hampshire Association of Conservation Commissions Annual Conference

The conference is scheduled for November 7th in Pembroke. Chairman Tenhave, Commissioner Perry and Councilor Vaillancourt stated the desire to attend. Each person attending has to do an individual registration (online), and indicate payment by check. An invoice will be provided, which will have to be forwarded to the Chairman for payment.

- Herbicide spraying at 10 Brookside Drive has been completed.

Chairman Tenhave spoke of having taken photographs prior to and after the spraying. Now having a few data points, the Commission will be able to do a comparison in the spring.

An invoice was received for the cost of spraying/attendance at meeting (\$295) and has been submitted for payment.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. September 14, 2015

The following amendments were offered:

Page 1, Line 48; add "and" between "attended" and "generated"
Page 2, Line 11; replace "state" with "stated"
Page 3, Line 60; replace "They" with "The"
Page 5, Line 36; add "route" between "Alternative" and "submitted"
Page 5, Line 37; add "to FERC" after "submitted"
Page 11, Line 27; replace "Wasserman" with "Watson"

MOTION BY COMMISSIONER TENHAVE TO ACCEPT AS AMENDED MOTION SECONDED BY COMMISSIONER VAILLANCOURT

MOTION CARRIED

5-0-1

Commissioner Perry Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Commissioner Glenn reminded the viewing audience of the HHNP Sub-committee meeting scheduled for Monday, October 12th at 7:00 p.m. in the Matthew Thornton Room.

Vice Chairman Caron stated the Grater Woods Sub-committee meeting did not take place as a quorum was not available. It is hoped the Sub-committee will meet before the end of the month.

Chairman Tenhave stated the Wildcat Falls Sub-committee had a workday out on the trails. They replanted the post that was removed by vandals and deposited on the side of the river. As part of the work day they also completed marking the trails, placed the new map in the kiosk, updated some of the postings, and put the Lexan cover on. Chairman Tenhave mentioned he was given links to an online Google map that can be used to download the map, and as you go it will show your progress along the trail. You can also tap on certain points on the map and be provided information. When asked if the function is something the sub-committee would be willing to help the Commission put in place for other sites, Chairman Tenhave responded Andrew Duane did that work. He is aware that Mr. Duane is extremely busy with other things at this time, but he is sure the question

could be asked.

ADJOURNMENT

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

The October 5, 2015 meeting of the Merrimack Conservation Commission was adjourned at 9:06 p.m.

Submitted by Dawn MacMillan