

MERRIMACK CONSERVATION COMMISSION
JUNE 1, 2015
MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, June 1, 2015 at 6:32 p.m. in the Merrimack Memorial Conference Room.

Vice Chairman Matt Caron presided:

Members of the Commission Present: Michael Boisvert
Cynthia Glenn
Gage Perry
Kristi Bradshaw, Alternate
Councilor Jody Vaillancourt

Members of the Commission Absent: Tim Tenhave, Chairman
Robert Croatti, Alternate

Also in Attendance: Madi Choueiri, 480 D.W. Highway

PUBLIC COMMENT - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

1. Madi Choueiri (applicant/owner)

Review for recommendation to the Planning Board of a site plan for a restaurant located at 480 D.W. Highway in the C-1 (Limited Commercial), Elderly and Town Center Overlay and Aquifer Conservation Districts. Tax Map 5D-3, Lot 046c.

Vice Chairman Caron noted the site plan is associated with the proposal for a restaurant to be located at 480 D.W. Highway; the site of the former Pizza Man restaurant. The building is located in the Aquifer Conservation Districts.

Vice Chairman Caron questioned what, if any, changes were being proposed to the existing parking lot. Mr. Madi Choueiri responded the existing parking lot has to be paved and striped. Also proposed is placement of flashing in the entrance area (two entrances off Church Street).

When asked if the number of parking spaces would increase, Mr. Choueiri stated it would not. Mr. Choueiri noted his neighbor is accessing his driveway from the same parking lot; however, his driveway comes from the side. When the parking lot is re-paved it will be lined to clearly delineate the entrance to the residence.

Commissioner Perry noted the plan provided includes several dates, and questioned if it would be updated. Mr. Choueiri stated he used the Plan of Record as a cost savings measure. Commissioner Perry questioned the railroad ties shown across the front of the property. Mr. Choueiri stated those were related to prior use. Commissioner Perry questioned what other items were associated with the prior use that are not being proposed. Mr. Choueiri passed around a photograph of what the property is intended to resemble.

Commissioner Boisvert questioned if the intent is to utilize the existing footprint and renovate the structure, and was told the appearance of the structure would not be changed.

Commissioner Perry questioned if the paved area would be ripped up. Mr. Choueiri responded the paved area would not be touched. The only area of disruption would be in the vicinity of the stone wall, which would be covered (wood) for the summer months to accommodate outdoor seating. Commissioner Perry questioned if plantings would be located in the front of the building, and was told there would be. He noted the pavement runs the full length of the front of the building. Mr. Choueiri stated there used to be parking in the front of the building. The Town no longer allows parking in that location. In the area of the existing retaining wall, the steps would be built up, the stone wall constructed, and plantings placed. Commissioner Perry questioned if the pavement would be removed. Mr. Choueiri responded the partial pavement would remain, and all work is being done inside the property.

1 Commissioner Perry questioned if seating for 40 includes the area of the porch. Mr. Choueiri provided a plan
2 detailing the appearance of the inside of the structure. He commented he may or may not be able to utilize the
3 porch area. That is dependent on weather. The intent will be for the appearance to be that of a porch. The name
4 of the restaurant will be La Terrasse, French for the terrace. The restaurant will serve Lebanese and French
5 foods.
6

7 Commissioner Bradshaw questioned if the intent is for the existing covered porch to become more of a glassed
8 enclosure. Mr. Choueiri stated the front of the building would be glass, which, during times of good weather,
9 would be opened.
10

11 Vice Chairman Caron questioned the area of snow storage. Mr. Choueiri stated that to be on the left side of the
12 parking lot. He spoke of a grass area in the corner at the end of the parking lot where snow from the driveway
13 would be pushed. In the event of a winter such as last, snow would be taken offsite. Vice Chairman Caron
14 questioned how the surface would be treated. Mr. Choueiri stated there would be the need to ensure safe
15 passage for patrons. Vice Chairman Caron stated the Commission's preference for sand to be utilized as
16 opposed to a salt product. He noted one of the reasons the application was before the Commission was its
17 location within the Wellhead Protection District.
18

19 Mr. Choueiri stated he would follow whatever is requested of him by the Commission. He spoke of Swiss road
20 pavement, which is more porous, and suggested that type of material could be utilized. In doing so, snow and/or
21 ice would not be on a flat surface. Sand could then be placed on the parking lot.
22

23 When asked about the timeline, Mr. Choueiri stated he would be doing most of the work himself. He would gain
24 direction from the Town on what is required. He would likely utilize outside contractors for HVAC, plumbing,
25 electricity, etc. It is hoped the restaurant could be completed in 4-5 months.
26

27 OLD BUSINESS

28 **1. NED Pipeline**

29 Commission to have a general discussion on the NED project and any immediate actions it may wish to take.
30 Particular items to be covered include initial thoughts on questions to be raised during scoping meeting(s)
31 with FERC.
32
33

34 Vice Chairman Caron stated the only update received was from the Ecologist. He noted June is the timeframe
35 during which a great deal of the surveying is conducted.
36

37 Councilor Vaillancourt remarked the information provided stated there is habitat in the proposed right-of-way,
38 which was expected. The other comment made was with regard to the number of vernal pools on the Horse Hill
39 Nature Preserve (HHNP). There was notation of bringing in an expert to assist with the bat study. Vice Chairman
40 Caron commented the one other piece was related to toads that are of interest in the State, which Mr. Littleton
41 had not expected to find.
42

43 Although not a detailed account, there was notation of a few items Mr. Littleton was surprised to see this early,
44 e.g., turtle nesting habitat and the Fowler's Toads.
45

46 Councilor Vaillancourt remarked at the May 28th Town Council meeting a correction was noted to the number of
47 affected land owners. Kinder Morgan has cited 61 affected landowners. However, 152 have been identified. She
48 noted some are common land owners on Whittier Place. When asked, Councilor Vaillancourt stated the Town
49 identified the 152. The Town Manager is in discussions with the Environmental Attorney regarding the best
50 means of presenting the information, in a timely fashion, to the Federal Energy Regulatory Commission (FERC).
51

52 Also during the May 28th meeting was continued discussion of the agreement to survey, which has gone through
53 a series of amendments. The most recent request for amendment came from Kinder Morgan. Councilor
54 Vaillancourt stated she would look to provide the Commission with an updated copy. One of the proposed
55 changes was to amend the following language: "The Town shall receive and have reasonable opportunity to
56 review and comment upon any report or other documentation of the results of TGP activities under the Agreement
57 prior to submission to the FERC." The request made was to delete the words "review and" and "prior to
58 submission to the FERC". Legal counsel took great exception to this, and strongly advised the Council to insist
59 upon that requirement.
60

1 As of this time, there is no survey agreement in place between the Town and Tennessee Gas Pipeline (TGP).
2 Commissioner Perry questioned if the Town's efforts in this regard are looked upon favorably by FERC.
3 Councilor Vaillancourt responded that is what our legal counsel is advising us. There are differences of opinion
4 with regard to that, e.g., some interpret allowing a survey to mean you are in favor of the pipeline, which is not the
5 case. She commented if it goes that far, the Town would be able to state it has attempted to negotiate a
6 reasonable survey agreement.
7

8 Commissioner Glenn questioned if the Commission had received information on why orange flags were located in
9 the HHNP. Councilor Vaillancourt stated her recollection the Chairman had intended to ask Mr. Littleton, and
10 suggested, if there were reason for concern the Commission would have been notified. She stated she would
11 follow up with the Chairman.
12

13 Commissioner Glenn commented, despite her efforts earlier in the day and the prior day, she was unable to gain
14 access to the FERC website.
15

16 Councilor Vaillancourt commented the only other item related to the pipeline would be the request of the
17 Chairman for the Commission to continue brainstorming on questions to be posed at a scoping meeting. She
18 stated her understanding there is a good possibility Kinder Morgan's final application is not going to be presented
19 in September. The FERC has forwarded to TGP some 45 pages of questions requiring response. Commissioner
20 Perry commented they are questions that require more than a single response, e.g., questions containing several
21 sub-parts also requiring response.
22

23 Councilor Vaillancourt reiterated with the time that will be required to respond to the questions posed, it is not
24 likely the final application will be submitted by September. That is part of the process for which the scoping
25 meetings depend. Until the process proceeds, there will be no news on when and where scoping meetings will be
26 conducted. In the meantime, the opportunity exists to identify good meaningful questions, and to be prepared for
27 the next step.
28

29 Commissioner Bradshaw asked for clarification of the types of questions the Commission would pose. Councilor
30 Vaillancourt responded no one has actually discussed who will ask what formally, but the way she imagines it is
31 that each department would have the opportunity to pose questions related to the work they do. She would
32 expect the Commission to pose conservation type questions pertaining to the conservation land it manages.
33 Commissioner Bradshaw asked if the type of questions that should be posed at a scoping meeting is limited to
34 those that are environmental in nature. Commissioner Perry stated it to be the scope of the project; any area
35 where we feel, as a Town, that will have an impact either on the Town or the way we conduct business should be
36 posed. The Commission is looking at the project from its viewpoint, e.g., migration of animals, mitigation of
37 wetland impacts, etc., the Public Works Department would view it from a differing point of view, as would other
38 departments. The need is to ensure such questions are included in the discussion so that they have to be
39 answered as part of the application process. That will provide an aspect of accountability with regard to the
40 provided responses.
41

42 Commissioner Bradshaw spoke of other conservation commissions having asked similar questions on other
43 pipeline projects, and suggested the Commission could refer to those and tailor them to our situation. Vice
44 Chairman Caron remarked in some cases there will be the ability to be broad, but there will be some areas where
45 very specific information can be provided. He provided the example of the path going through Long Pond and the
46 HHNP, which is our biggest Heron nesting area, the impacts the proposed project would have, and what TGP
47 would propose in the way of mitigation.
48

49 Councilor Vaillancourt spoke of the desire to be prepared, and suggested each agenda include this subject
50 matter.
51

52 NEW BUSINESS - None

53
54 OTHER BUSINESS

- 55
56 • Beaver Management and water control activities, Steps to create updated Beaver Policy
57

58 Commissioner Perry stated one of the last tasks of GZA GeoEnvironmental, Inc. (GZA) is to generate a fact sheet
59 on the properties that are impacted, a good many of which are not under the auspices of the Commission. He

1 provided a copy of the rough draft for review and feedback by the Commission. He spoke of adding links
2 pertinent to Merrimack.

3
4 The intent is for the plan to be available to anyone having questions regarding beaver management. He
5 commented the Commission is close to the point of handing out the plan town-wide and beginning work on the
6 actual implementation of the Management Plan. Councilor Vaillancourt stated her pleasure with the fact sheet;
7 particularly that it includes something in writing that states dam removal is generally a poor management choice.

8
9 • Police Patrols at Grater Woods

10
11 Vice Chairman Caron informed the Commission he and Lt. Tarleton met last week to go over the areas of
12 concern. Lt. Tarleton informed him the Police Department would be open to utilizing ATV, foot, and bicycle
13 patrols. The department does not have a large number of officers trained on ATVs. Foot and bicycle patrols
14 would be necessary to cover the area. Lt. Tarleton had believed ATV patrols would be best for all of the patrols;
15 however, once able to view the areas, he realized there are some an ATV could not traverse. He is very open to
16 mixed patrols. They have arranged to meet again.

17
18 Vice Chairman Caron passed around samples of the printed brochures. When asked if brochures would be
19 placed in kiosks, he suggested they should be, and spoke of placement in the small mailboxes located at the
20 HHNP. Commissioner Perry noted there is one located on the school kiosk. He offered to contact Matt
21 Shevenell, Business Administrator, School District, to determine if he has any objections to placing brochures at
22 that location.

23
24 Commissioner Boisvert questioned whether the Colman area has a box, and was informed it does not. Vice
25 Chairman Caron commented the school area likely gets the most amount of traffic, followed by Conservation
26 Drive, and then Beebe Lane. Councilor Vaillancourt questioned when the patrols would begin. Vice Chairman
27 Caron stated his belief Lt. Tarleton is first looking to get a number of officers trained; a great deal of information
28 was learned during the recent meeting, which resulted in a redesign of the training. It may take a week or two for
29 training to be completed, which he has been asked to participate in. He stated his belief patrols would begin at
30 some point in the month of June. The Commission will be kept apprised. Vice Chairman Caron informed the
31 Commission he has recommended patrols begin at Wildlife Opening 1. From that location they could utilize both
32 an ATV and a bicycle, and begin patrols from the center of the property.

- 33
34 • Who is planning to attend Wetland Assessment training:
35 http://www.nhacc.org/files/4614/2979/8898/wetlandassessment_NHACC_2015flyer.pdf

36
37 Commissioner Bradshaw questioned the procedure to be followed if interested in attending. Commissioner Perry
38 responded workshops such as this are typically paid for by the Commission. The training is scheduled for June
39 26, 2015 from 1:00 - 4:00 p.m. at the Conservation Center located at 54 Portsmouth Street, Concord, NH.
40 Anyone interested in attending should contact Chairman Tenhave via email.

41
42 Commissioner Bradshaw questioned if she could register online and seek reimbursement, and was told there will
43 be an option online to identify payment by check. The check would come from the Town/Commission.
44 Commissioner Glenn commented, although she would be unable to attend this session, she is attending one titled
45 Off Trail: Outdoor Skills for Land Conservation, on Saturday, June 6th from 9:00 a.m. – 2:00 p.m. at Bear-Paw
46 Regional located at 63 Nottingham Road in Deerfield, NH.

- 47
48 • Update on Environmental Impact Study for HHNP and Gilmore Hill Memorial Forest

49
50 Discussed under the agenda item for the NED Pipeline.

51
52 PRESENTATION OF THE MINUTES

53
54 Merrimack Conservation Commission. May 18, 2015

55
56 *The following amendments were offered:*

- 57
58 Page 1, Line 54; replace "Commissioner Glenn" with "Councilor Vaillancourt"
59 Page 2, Line 8; replace "he" with "the"
60 Page 3, Line 15; replace "wedge" with "ledge"

1 Page 12, Line 16; delete "been"

2

3 **MOTION BY COUNCILOR VAILLANCOURT TO ACCEPT AS AMENDED**

4 **MOTION SECONDED BY COMMISSIONER PERRY**

5 **MOTION CARRIED**

6 **5-0-1**

7 *Commissioner Bradshaw abstained*

8

9 PUBLIC COMMENT

10

11 James Francis, 4 Klara Drive

12

13 States he does a lot of mountain biking in the HHNP, and offered to be of assistance if there are certain activities
14 the Commission wishes to be made aware of. Commissioner Perry questioned and was told the stream goes
15 behind Mr. Francis' residence. He noted that is one of the areas the Commission is monitoring for beaver activity.
16 The area experienced problems early last year, which receded over the season as the beaver seemingly moved
17 on. He requested Mr. Francis contact him if he witnesses unusual activity in the area.

18

19 COMMISSIONER COMMENTS

20

21 Commissioner Bradshaw noted she resides on Whittier Place, which has a pond in the center of the development
22 that has beaver activity. She questioned if that should be brought to the attention of the Commission.
23 Commissioner Perry questioned if the presence of beaver is causing a problem for the pond/residents.
24 Commissioner Bradshaw stated it is not. Commissioner Perry stated the Commission has mapped areas of
25 activity and areas that have great habitat for activity throughout town. The intent is to monitor the areas for
26 problems that could arise. If there are problems, the Commission would like to be made aware, and if there is
27 activity the Commission should look at monitoring what is upstream and downstream of the area as each year the
28 beaver have litters, which reside within their community for a year or so before being kicked out. It is possible for
29 activity occurring a few hundred yards downstream to become a problem.

30

31 Commissioner Bradshaw remarked she is aware there is activity, but has not been made aware of any problems
32 associated with it.

33

34 ADJOURNMENT

35

36 **MOTION BY COUNCILOR VAILLANCOURT TO ADJOURN**

37 **MOTION SECONDED BY COMMISSIONER GLENN**

38 **MOTION CARRIED**

39 **6-0-0**

40

41 *The June 1, 2015 meeting of the Merrimack Conservation Commission was adjourned at 7:24 p.m.*

42

43 Submitted by Dawn MacMillan

44