TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to the requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: 10/7/15

Date of Meeting: 10/22/2015

Submitted by: Tim Tenhave

Time Required: 30 minutes

Department: Conservation Commission

Background Info. Supplied: Yes ☒ No ☐

Speakers: Tim Tenhave – Chair of the Conservation Commission

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	☐	Recognition/Resignation/Retirement:	☐
Public Hearing:	☐	Old Business:	☐
New Business:	☒	Consent Agenda:	☐
Nonpublic:	☐	Other:	☐

TITLE OF ITEM

Land purchase approval

DESCRIPTION OF ITEM

The Conservation Commission wishes to purchase 4 parcels of land and is seeking Town Council approval in accordance with RSA 36-A:4.

REFERENCE (IF KNOWN)

RSA:	36-A:4	Warrant Article:	
Charter Article:		Town Meeting:	
Other:		N/A:	

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	☒	Grant Requirements:	☐
Easel:	☐	Joint Meeting:	☐
Special Seating:	☐	Other:	☐
Laptop:	☐	None:	☐

CONTACT INFORMATION

Name: Tim Tenhave

Address:

Phone Number:

Email Address: ttenhave@merrimacknh.gov

APPROVAL

Town Manager: Yes ☐ No ☐

Chair/Vice Chair: Yes ☐ No ☐

MCC Land Purchase: Conservancy Properties

Presented by:

MCC Chair Tim Tenhave

October 22, 2015

CHAPTER 36-A
CONSERVATION COMMISSIONS

36-A:4 Powers. –

I. Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

II. No commission, its members, or designee shall enter private property to gather data about the property for use in a wetlands designation, prime wetlands designation, natural resource inventory report or map, or natural heritage map without first obtaining permission of the property owner or agent, or a lawfully issued warrant. Such permission may be oral or written, provided that record is made of oral authorization. If consent for entry is denied, the conservation commission, or designee, may obtain an administrative inspection warrant under RSA 595-B.

III. Prior to requesting permission, the commission, its members, or designee shall notify the landowner of the purpose of the data gathering, the specific features that will be evaluated, the manner in which the data collected will be recorded and distributed, and possible known consequences of the data collection.

IV. No data gathered by entering property without the permission of the landowner or an administrative warrant shall be used for any purpose other than law enforcement purposes authorized by statute.

V. The conservation commission, in reviewing an application to provide input to any other municipal board, shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or providing such input.

Source. 1963, 168:1. 1973, 550:3. 1995, 138:2, eff. July 23, 1995. 2008, 317:2, eff. Jan. 1, 2009. 2012, 202:2, eff. June 13, 2012. 2013, 270:4, eff. Sept. 22, 2013.

CHAPTER 36-A
CONSERVATION COMMISSIONS

36-A:5 Appropriations Authorized. –

I. A town or city, having established a conservation commission as authorized by RSA 36-A:2, may appropriate money as deemed necessary for the purpose of this chapter. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 36-A:4 may be placed in a conservation fund and allowed to accumulate from year to year. Money may be expended from said fund by the conservation commission for the purposes of this chapter without further approval of the town meeting.

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property or for a contribution to a qualified organization for the purchase of property interests under RSA 36-A:4-a, I(b), the conservation commission shall hold a public hearing with notice in accordance with RSA 675:7.

III. In the municipality that has adopted the provisions of RSA 79-A:25, II, the specified percentage of the revenues received pursuant to RSA 79-A shall be placed in the conservation fund.

Source. 1963, 168:1. 1973, 550:4. 1987, 318:2. 1988, 120:1, eff. June 18, 1988. 2008, 317:4, eff. Jan. 1, 2009.

Public Notice
Town of Merrimack Conservation Commission

Public Hearing Notice

Residents of Merrimack are hereby advised that the Conservation Commission will conduct a public hearing to consider acquisition of real property for conservation purposes pursuant to NH RSA 36-A, located off South Grater Road. This purchase includes 4 parcels known as Tax Map 5A/003, 5A/065, 5A/065-1, and 5B/001. All interested parties are invited to attend.

The public hearing will be held on Monday, October 19, 2015 at 6:30 PM in the Memorial Conference Room.

What parcels are involved:

- Tax Map 5A/003, 5A/065, 5A/065-1, and 5B/001.
- 3 parcels owned by the Conservancy Foundation, Inc.
- 1 parcel (5A/065-1) owned by Second Generation LLC, and members of the Nash family and Trust.

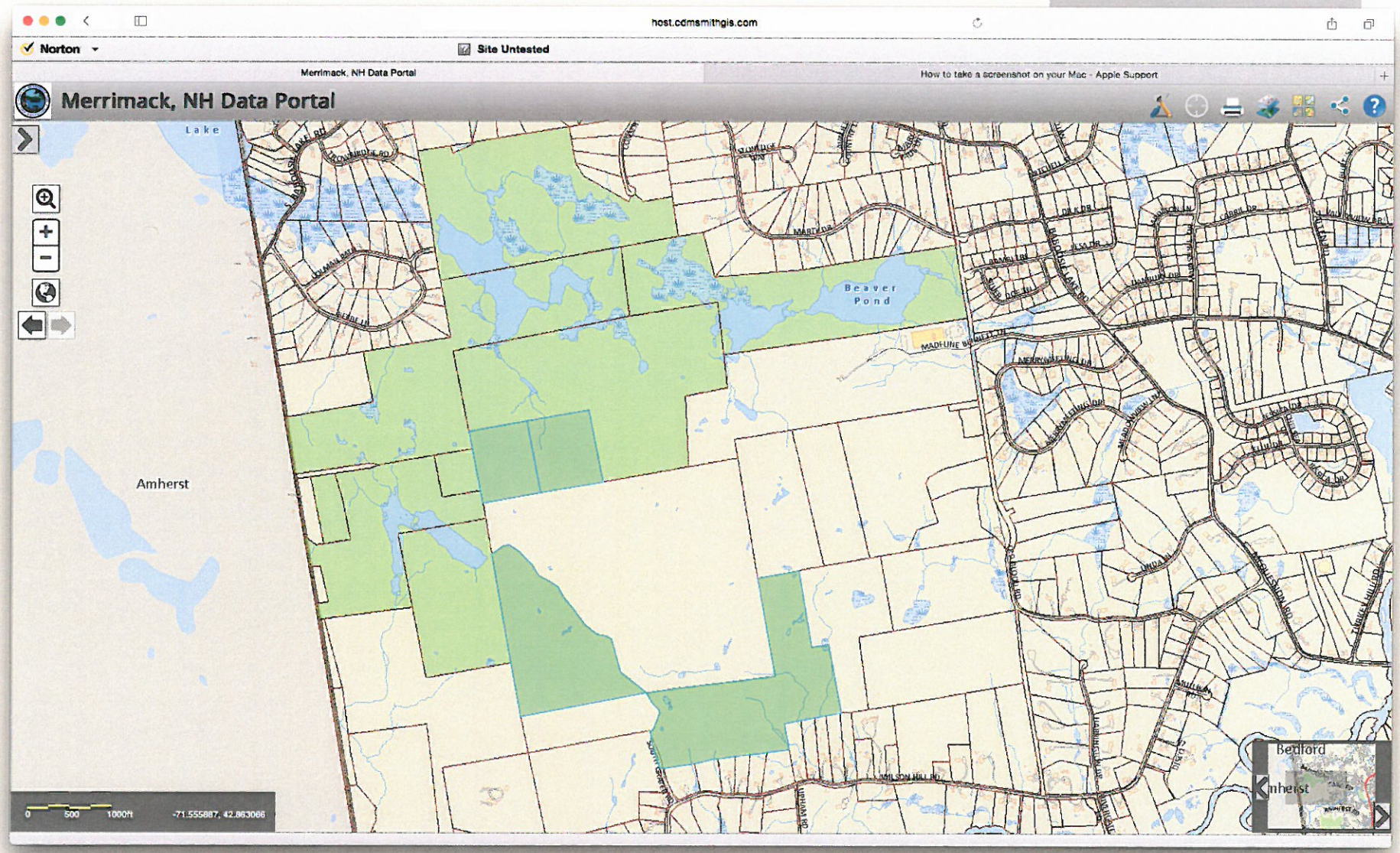
Details of the Sale

- The parcels combined are to be purchased for $431,600.00.
- MCC to utilize its Conservation Fund #53 to cover recording, Town attorney, purchase price, and related costs.
- Purchase must include all 4 parcels.
- Properties sold as-is and “for conservation purposes only”.
- Sale contingent on public hearing and approval of the Town Council.
- See Purchase and Sales agreement for further details.

Title

- The Conservancy properties have clean titles.
- Parcel 5A/065-1 had discrepancy in the transfer from ½ owner Gerald Nash to Second Generation LLC. Not found or corrected until this purchase. Since Mr. Nash has passed, it fell to his Estate and Trust.
- Town's Law Firm and Seller's Attorney worked this purchase to cover all potentially concerned parties so that everyone signs off on the P&S and the deed when the property is transferred.
- Town's Firm is comfortable with the solution and is the best that can be hoped for.
- The solution ensures the Nash Estate, Nast Trust, Second Generation LLC, or Mr. Nash's heirs can not lay any claim to that portion of ownership.

Map of the Parcels



Why is this important?

- Expands Grater Woods, which is a critical Conservation Focus Area as defined in the 2010 Biodiversity Conservation Plan prepared for the Town and the Commission.
- In accordance with 2013 Town Master Plan Goal 1.5 (page 2) "Continue to preserve significant parcels of land along the Merrimack and Souhegan Rivers, Grater Woods and Horse Hill to enhance biodiversity, recreational opportunities, and water quality."
- This area of Merrimack is a section of the State's highest ranked habitat as ranked by the Fish and Game.
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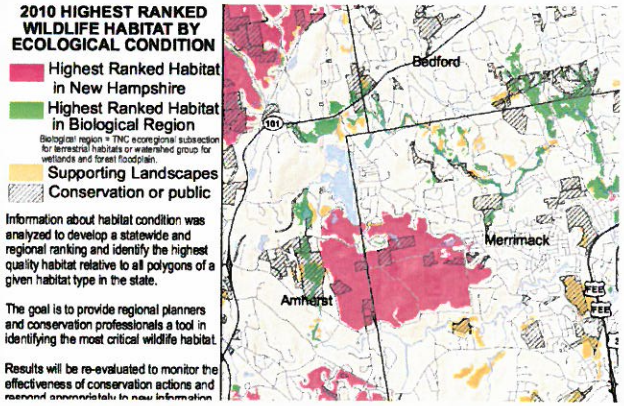

In Closing…

- Commission seeks the Council's approval of the purchase of these properties.
- Any Questions?

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 36-A
CONSERVATION COMMISSIONS

Section 36-A:4

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