



# Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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## MERRIMACK CONSERVATION COMMISSION

DECEMBER 7, 2020

### MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, December 7, 2020 at 6:31 p.m.

Steven Perkins, Chair, presided:

Members of the Commission Participating: Gina Rosati, Secretary  
Michael Boisvert  
Cynthia Glenn  
Michael Drouin, Alternate Member  
Eric Starr, Alternate Member  
Tim Tenhave, Alternate Member

Members of the Commission Absent: Gage Perry  
Councilor Peter Albert

Also Participating:

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Due to the COVID-19/Coronavirus crisis, and in accordance with [Governor Sununu's Emergency Order #12](#) pursuant to [Executive Order 2020-04](#), this Commission is authorized to meet electronically.

As stated on the agenda, the meeting was aired live on Merrimack TV (Channel 20). Telephone access was available for members of the public wishing to provide comment; 1-312-626-6799 US / 1-929-205-6099 US (Meeting ID: 951 1454 4135).

Also identified on the agenda was the opportunity for public comment to be submitted leading up to the start of the meeting via email to: [CommDev@MerrimackNH.Gov](mailto:CommDev@MerrimackNH.Gov).

Commissioners were participating via Zoom. In accordance with [RSA 91-A:2 III](#), Each member of the Commission was asked to state, for the record, where they were, why their attendance in person was not reasonably practical, who, if anyone, was with them, and whether or not they were able to hear the proceedings.

#### **Chair Perkins**

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

#### **Commissioner Rosati**

Stated she was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, she was alone in the room she was in, and could hear the proceedings.

**Commissioner Boisvert**

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

**Commissioner Glenn**

Stated she was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, she was alone in the room she was in, and could hear the proceedings.

**Commissioner Drouin**

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

**Commissioner Tenhave**

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

**Commissioner Starr**

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

It was acknowledged all members participating electronically could be heard. The Commission was reminded all votes would be taken by Roll Call.

*Chair Perkins designated Commissioners Drouin, Starr, and Tenhave to sit in as a voting members.*

**PUBLIC COMMENT** - None

**PUBLIC HEARINGS** - None

**APPOINTMENTS** - None

**STATUTORY/ADVISORY BUSINESS** - None

**NEW BUSINESS**

**1. Flying Eagles – Trees around Drobish Patterson Field**

It was over a year ago that the Flying Eagles made known the desire to cut down trees that were interfering with the flight pattern of their model airplanes. They recently reached out to the Chair regarding the matter.

The suggestion was made that the particular trees desired to be cut be flagged so that the Commission could gain a clear understanding of the extent of the request. As it is Town property, the Commission could make a recommendation to the Town Council.

Asked who could cover the cost, Commissioner Boisvert stated his belief the group would be responsible for the cost of the cutting and removal. Commissioner Drouin asked for clarification if the trees would be cut and dropped or if equipment would be utilized for removal. Commissioner Boisvert stated that to be information that would be sought from the group.

Commissioner Tenhave recommended the Chair speak with Timothy Thompson, Director, Community Development Division, to determine how he would like to proceed. Approval from the Town Council will be required, and it is likely the Commission's input will be requested.

Chair Perkins will provide Director Thompson with the written request, and look for his input.

## 2. Discussion on what to look for when reviewing developer projects

Chair Perkins spoke of the historical knowledge of veteran members of the Commission, and the request made of Commissioner Tenhave to provide feedback on the methodology utilized when reviewing projects that come before the Commission.

Commissioner Tenhave suggested future agendas include an opportunity for the Commission to discuss particular aspects of interest/concern following review of any project.

[Chapter 36-A](#) 36-A:2 reads in part: "A city or town which accepts the provisions of this chapter may establish a conservation commission, hereinafter called the commission, for the proper utilization and protection of the natural resources and for the protection of watershed resources of said city or town."

On the Town's [website](#) under the [Community Development](#) Department, is a link to the Town Code Chapter 167: Stormwater Management Standards. That document provides information on State Best Management Practices (BMPs), how to protect water quality in Town, stormwater management plan requirements (covered by the engineering organization that supports the Town in review of plans), enforcement, waivers, etc.

The website for the [NHDES Water Division](#) includes numerous links that direct users to issues around drinking water, groundwater, stormwater, wetlands, etc. Included are BMPs for ground water, Administrative Rules for Alteration of Terrain (AoT), water quality rules and regulations, etc. A wealth of information can be gained from this site.

Also included under the Community Development page is a link to Planning and Zoning, which includes information on the regulations that govern site plans and subdivisions. Most of what the Commission interacts with the Planning Board on is covered in site plan regulations. The Site Plan Regulations note (§ 2.01) the various entities, including the Commission, that review the applications that come before the Town.

Some of the recommendations the Commission has provided when reviewing projects were included in the recent update to the regulations, e.g., § 3.09 – Landscaping Design Standards identifies on parcels that are located in the Aquifer Conservation District and/or a Wellhead Protection Area, only low phosphate, slow release nitrogen fertilizers shall be used. While not required, it is recommended that the applicant utilize a soil testing facility to determine what levels and application rates are necessary prior to applying any fertilizers to the site. Also listed (§ 3.10) is the requirement for a note stating that no salt or chemical de-icers are to be used for winter maintenance, and that winter maintenance shall be performed by a Green Snow-Pro certified (or functional equivalent certification) contractor. Under §5.02 – Contractor Storage Yards, listed is the requirement that salts and any bulk materials containing salts, commonly used in snow and ice removal, shall be

stored as recommended by the Conservation Commission and Fire Department. Commissioner Tenhave remarked it is acceptable to bring up these restrictions even if only a piece of the property is located within an Aquifer Conservation District.

The reasoning behind no salt use is that properties may be next to Town wells or feeding our aquifers. All drinking water in the Town comes from the ground; whether you are a private landowner with your own well or on Merrimack Village District (MVD) water. Protecting our watershed resources is extremely important to the residents of Merrimack. The only place that is an exception are those who are on Pennichuck water in the southern portion of the Town (surface water).

The issue of straw appears in two different areas; § 4.14 – Improvement Plans; around temporary erosion protection during construction and erosion control details. Use of hay no longer shows up in the regulations.

Within the Subdivision Regulations, § 4.16 - Storm Drainage System, addresses closed and open systems.

When putting a site plan together, applicants are required to prepare a stormwater plan. The stormwater plan reviewed at the last meeting of the Commission was highlighted (25 Craftsman Lane); page 1 of 3 showed the soil types found on the property. Soil types are important when it comes to water infiltration. Since all of the water we drink comes from the ground, we want water going into the ground. If it cannot infiltrate then we are not replenishing our aquifers. What should be found in every stormwater plan is the soil survey, which should provide information on soil types. The example identified two types; WDA and WDC. Descriptions that identify sand, for example, indicate soil that is great for infiltrating water. Slopes and contour also impact water infiltration.

When reviewing site plans, particularly those in the western part of Town, and look to the elevations, those identifying elevations of 200-400' will be hilly (Merrimack is mostly at 200' of elevation and lower). In the hills we are truly the granite state; seen is a lot of ledge and rocks. If a project is seeking to construct a subdivision on a very hilly area or when elevations indicate, the question that should be asked is where all of that water is going when it rains.

Another item to review in site plans is stormwater calculations. Using the same example, Commissioner Tenhave noted listed were pre and post-development drainage numbers. The Commission looks at the calculations for the 5-year, 10-year, 25-year, and 50-year storm. What that gets to is the amount of water and how quickly you get it in a storm like that. What will be shown is the storm event that is of interest. Site plan regulations dictate which storm events applicants need to be looking at. They get into flow or cubic feet per second (CFS), overall volumes, etc. What you want to see, if they have done their work correctly, is that the volume is not increasing as a result of the project and for the speed of the water to slow (more time to infiltrate).

Commissioner Tenhave commented the engineers that work for the Town as well as Community Development should be looking at these kinds of things, but he likes to verify them.

When unable to control all of the water on a site, you want to get an idea for where the water is flowing to if leaving the site. At times, plans will identify this with arrows. If not, the question can be asked of how they are handling/treating the water, and where it is going.

The Commission recently reviewed a project on the Flatley property, which intended to construct incubator buildings on the site. At the time, Commissioner Tenhave questioned the water running along the front of the road and the plans to treat the water and then push it into the ponds onsite. He knew, from looking at the aerial photos of the site and being familiar with the parcel, that those ponds are embedded in the Dumppling Brook,

which leaves the site and eventually crosses the Commission parcel before going into the Merrimack River. That is why he wanted to understand the flows and volumes and whether they were going to increase. In their case, they were not allowed to infiltrate the water, and he wanted to know how that would impact other parcels.

When he looks at plans and what is occurring with water, he likes to look at what is happening to the abutting parcels, e.g., are they fully handling all water onsite, and if not, what are they doing about it. Our regulations state they cannot make it worse for anyone, but he wants to see what is occurring, if it is potentially impacting a wetland, etc.

In a lot of plans, water will be channeled into a detention pond. Detention ponds can overflow. What happens when it leaves the pond? Usually they put some sort of spreader; lay rocks (3-4") across so that when water goes through it, it slows. When water slows it stops erosion and provides opportunities for infiltration.

He provided the example of the Herrick Street plan where water/soil separators were discussed. For the dealership parking lot they were going to be parking vehicles and potentially doing a little bit of service on them. They intend to incorporate into their stormwater collection system an oil/water separator. The desire is to keep oils on top of the water so that they can be cleaned out, so they don't eventually go through the whole system and get further down. Oil can contaminate water, especially if it gets down into the ground. A drop of oil can contaminate gallons of water so that it is not drinkable for humans.

Commercial properties where there is a great deal of parking are the kinds of projects where those type of issues should be looked at. Cars coming onsite can drip anti-freeze or oil. They can also bring salt in with them. You can look at that affect along with their de-icing plans and determine where de-icing compounds should be allowed. The alternative is typically sand. Another strong alternative is the sun. You may want to look at, if they are putting plans together and seeking input from the Commission, suggesting they locate parking lots or driveways on the southern side of a parcel where there is apt to be more sun.

When plans are being put together consideration has to be given to whether they are creating new impervious material on a site. Aspects like driveways and parking lots are usually impervious. When they have that they have to be collecting that water somewhere. They need to put it somewhere so that it can go in the ground (detention basins or underground systems). The key with any kind of system is the need for maintenance. You want to see if there is a maintenance plan and if the owners will be required to follow it.

When reviewing plans, if there are wetlands onsite, there is the need to understand how close the project gets to them, if they are being disturbed; Town has 25' no disturb buffer and a 40' buffer for development. A person can seek from the Zoning Board of Adjustment approval to infiltrate that 40' area if able to prove a hardship exists.

Wetlands are wet for a lot of reasons, mostly because their soils don't allow infiltration of water. That tends to mean water stays near the surface. It doesn't actually have to be a puddle or pond to be a wetland; it could just be wet and will have certain vegetation. There is an entire set of rules by NHDES as to what determines what is truly a wetland. When you look at projects with larger wetlands, you want to understand what is going on near them and if they are planning on removing trees or doing other things that could cause damage to the wetland in the future; not only to the wetland itself and its water ability, but also all of the natural pieces that go around them (critters, etc.).

Noted was that phosphate (in high enough concentration) encourages certain things like algae blooms. If the phosphates are running off the soil and making it into streams and brooks and eventually ponds, it could create a lot of issues with encouraging the types of bacteria you don't want a lot of. Those exist in all of those water

bodies, but there is a balance, and the phosphates can throw off the balance. Nitrogen is great for a quick green-up. You want slow-release Nitrogen. The thinking is that it will infiltrate the soil where you put it versus running off elsewhere.

When looking at industrial properties, you look for the kind of chemicals to be stored onsite, the type of storage being used, and if they have spill kits and proper training for their people. A lot of that is rolled into the regulations, but it is worthwhile to ask the question.

When it comes to subdivisions particularly, when reviewing the site plan, you need to understand that is the last opportunity for the Commission to provide input. If there are concerns about what is planned for the building or could occur in the future, you should raise the questions. It is a good idea to review the kind of septic system that will be in place. If having leach fields, good engineers ensure sufficient room to address the situation should a primary leach field fail (room to put in another). Most of that is covered already by NHDES, etc.

### **OLD BUSINESS**

#### **MOTION BY CHAIR PERKINS TO TAKE FROM THE TABLE ELECTION OF A VICE-CHAIRPERSON MOTION SECONDED BY COMMISSIONER ROSATI**

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

Yea: Chair Perkins, Commissioner Rosati, Commissioner Boisvert, Commissioner Glenn,  
Commissioner Drouin, Commissioner Tenhave, Commissioner Starr

7

Nay: 0

#### **MOTION CARRIED**

#### **1. Nominations for Vice Chair of the Conservation Commission**

**Chair Perkins called for nominations for Vice Chairperson of the Merrimack Conservation Commission for the remainder of the 2020-2021 term.**

#### **COMMISSIONER ROSATI NOMINATED MICHAEL BOISVERT SECONDED BY CHAIR PERKINS**

#### **VOTE ON ELECTION OF MICHAEL BOISVERT TO THE POSITION OF VICE CHAIRPERSON OF THE MERRIMACK CONSERVATION COMMISSION FOR THE REMAINDER OF THE 2020- 2021 TERM**

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

Yea: Chair Perkins, Commissioner Rosati, Commissioner Boisvert, Commissioner Glenn,  
Commissioner Drouin, Commissioner Tenhave, Commissioner Starr

7

Nay: 0

#### **MOTION CARRIED**



*Commissioner Boisvert declared Vice Chairperson of the Merrimack Conservation Commission for the remainder of the 2020-2021 term.*

## **2. Annual Report – Request to include how COVID-19 affected the Conservation Commission**

Chair Perkins noted the request for a modification to the Annual Report to include the impact COVID-19 has had on the Commission and the types of measures taken to continue conducting business as normally as possible. A copy of the Annual Report was provided the Commission (copy attached).

Commissioner Rosati noted a change to reflect that Michael Swisher resigned, and the addition of information relative to the impacts of COVID-19.

## **3. Grater Woods Trail Maintenance**

Commissioner Boisvert commented with the sub-committees not able to meet at the moment, and with the departure of Matt Caron from the Commission, issues that would typically be addressed in a very timely manner and virtually seamlessly, are needing attention. He stated a willingness to take on half of the property in terms of visiting the area to be aware of and addressing issues that arise. He questioned who might be willing to address the remainder of the parcel.

He spoke of the need to understand who would be taking on the responsibilities of the various properties.

Chair Perkins stated his belief there is a network out there that might be able to assist in this regard.

Commissioner Boisvert spoke of members of the biking community reaching out to him and addressing some issues that required attention.

Commissioner Rosati commented on the possibility to list particular tasks under volunteer opportunities on the website. She would like to better organize the volunteers so that there are identified individuals who could be called upon for certain tasks.

Commissioner Tenhave stated the need to ensure those who would be handling equipment, such as that required to address downed trees, are properly trained and understand what is required, e.g., appropriate protective gear. He would not want to simply encourage anyone to go onto the properties with a chainsaw and address downed trees. Commissioner Boisvert spoke of the distance that may have to be traveled by an individual. It may not be an easy task to carry equipment and protective gear.

Commissioner Glenn stated her belief the current sub-committee for the Horse Hill Nature Preserve has members who can address downed trees. If too large or dangerous, they have, in the past, looked to the Town for that work. She is comfortable with the current members making those calls.

Commissioner Boisvert stated his belief the Grater Woods Sub-committee was left with a hole with the departure of Matt Caron. Commissioner Rosati has made sub-committees aware of the opportunity to appear before the Commission with any issues they feel need addressing.

## **OTHER BUSINESS**

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

*There were none.*

## **2. Sub-Committee Updates**

Commissioner Boisvert spoke of an email regarding the Sklar Waterfront Park; Mark Twardoski moved the boulders back into place, and has requested additional boulders. Commissioner Boisvert was uncertain trucks could traverse the area under the railroad overpass. He questioned if that area could be put on the list to receive some reground asphalt when available. Commissioner Tenhave suggested the question be posed of Kyle Fox, Director, Public Works Department to gain his opinion.

## **PRESENTATION OF THE MINUTES**

Merrimack Conservation Commission. . . . . [November 16, 2020](#)

*The following amendments were offered:*

Page 5, Line 15; replace “Re” with “There” in the last sentence  
Page 6, Line 46; replace “our” with “out”

## **MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED MOTION SECONDED BY CHAIR PERKINS**

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

Yea: Chair Perkins, Commissioner Rosati, Commissioner Boisvert, Commissioner Glenn,  
Commissioner Drouin, Commissioner Tenhave, Commissioner Starr

7

Nay:

0

## **MOTION CARRIED**

## **COMMISSIONER COMMENTS**

Commissioner Tenhave noted Commissioner Starr has been doing good work putting together the LCIP walk notes. He will provide necessary feedback following the meeting.

Deer hunting season came to an end yesterday for all areas.

Work continues to put Deed language together for the Tomasian land donation. It is likely to be later in January before any votes will be taken. He plans to bring the Deed language before the Commission for review. The concrete structures that were on the parcel have been removed.

Commissioner Starr stated the report on the Wasserman Walk is effectively complete.

Chair Perkins noted the next meetings of the Commission are scheduled for January 4, 2021 and January 25, 2021.

## **TABLED**

**1.** Discussion and vote to re-treat the invasive Knotweed that is taking hold again on property off of



Brookside Drive. This will require a licensed applicator.

*Tabled 9-21-20*

**2. Grater Woods By-pass Trail**

*Tabled 11-16-20*

**ADJOURNMENT**

**MOTION BY COMMISSIONER TENHAVE TO ADJOURN**

**MOTION SECONDED BY COMMISSIONER GLENN**

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

Yea: Commissioner Boisvert, Commissioner Glenn, Commissioner Drouin, Commissioner Tenhave,  
Commissioner Starr, Chair Perkins, Commissioner Rosati

7

Nay:

0

**MOTION CARRIED**

The December 7, 2020 meeting of the Merrimack Conservation Commission was adjourned at 7:53 p.m.

Submitted by Dawn MacMillan