



Town of Merrimack, New Hampshire

Community Development Department
6 Baboosic Lake Road
Town Hall - Lower level - East Wing

603 424-3531
Fax 603 424-1408
www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

JUNE 7, 2021

MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, June 7, 2021, at 6:30 p.m.

Steven Perkins, Chair, presided:

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

Members of the Commission Absent: Ellen Kolb, Alternate Member
Gage Perry
Eric Starr
Councilor Nancy Murphy

Also Participating: Tom Hildreth, Esq., McLane Middleton
Stephen P. Glowacki, Civil Eng., RJ O'Connell & Associates
Jeff Checkoway, VP, Project Manager, Calare Properties, LLC
Matt Peterson, Keach-Nordstrom Associates
Andrew Duane, Secretary, Wildcat Falls Sub-Committee

Due to the COVID-19/Coronavirus crisis, and in accordance with [Governor Sununu's Emergency Order #12](#) pursuant to [Executive Order 2020-04](#) (extended by Executive Order 2021-10), 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: 936 6068 1737). 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.

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 his office, 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.

Vice Chair 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 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 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.

Chair Perkins designated Commissioner Tenhave to sit in for Commissioner Perry and Commissioner Drouin for Commissioner Starr.

PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

1. **57-59 Daniel Webster Highway Merrimack, LLC. (applicant/owner)** - Review for recommendation to the Planning Board of a Site Plan to construct a 100,700 s.f. manufacturing building and construct a 66,000 s.f. manufacturing addition to the existing 449,500 s.f. warehouse building. The parcels are located at 57-59 Daniel Webster Highway in I-1 (Industrial) and Aquifer Conservation Districts, Tax Map 2E, Lots 006 and 006-01.

Tom Hildreth, Esq., McLane Middleton, stated the property at 59 D.W. Highway has been amended and added to over time. His historical research suggests that in the late 60s and early 70s, it was the site of what became a very substantial Nashua Corporation facility. It is now a multi-tenanted site. The property is on the eastern side of D.W. Highway (southern portion of Town). Displayed was a page from the Site Plan that depicts the proposed changes; 66,000 s.f. addition to the southern end of the existing building. The building is completely tenanted today and there is reason to believe one of the tenants desires the additional space. While that is being done, the desire of the property owner is to construct a 100,000 s.f. facility at the northern end of the site given the current market for flex warehouse/light manufacturing space.

The lengthy stormwater management report addresses how the proposed changes will improve on existing conditions in terms of how stormwater is managed onsite. He believes the plans are currently with the Town's independent consultant for review.

Stephen Glowacki, Civil Engineer, RJ O'Connell & Associates, Inc., stated the project consists of an addition of 66,000 s.f. of building expansion at the south end along with 100,700 s.f. of new construction to the north. Along with that are associated parking fields and expansions to those. Total parking onsite will be 554 spaces. With the addition of the impervious area (net increase of 348,723 s.f.), they have developed a robust stormwater program as mitigation.

Stormwater from the roof of the proposed addition (66,000 s.f.), will be directed to the subsurface infiltration to the south (labeled SIS2 on the plans). That stormwater will infiltrate into the ground (B type soils). Any overflow will follow the path it does today. Stormwater runoff from the roof of the 100,700 s.f. building to the north will be directed to the subsurface infiltration (SIS1) located along the northern edge of the site. Runoff from paved areas primarily around the new building will be collected in catch basins with 4' sumps and hoods. The water will be channeled through hydrodynamic particle separators and discharged into either an infiltration basin (standalone) or an existing pipe that runs through the site.

The system was designed in accordance with the New Hampshire Stormwater Manual design criteria. An Alteration of Terrain (AoT) permit will be sought given the size and scope of the project. As part of that permit, required are the implementation of a stormwater pollution prevention plan, which has been developed, the collection of stormwater runoff through catch basins with deep sump, drainage manholes and hydrodynamic particle separators, sub-surface and end surface infiltration basins, and implementation of an Inspection & Maintenance (I&M) Plan. Overall, the project results in a reduction of peak runoffs through the 50-year-storm.

Asked how the system for the new buildings complements or works with the existing system, Mr. Glowacki responded primarily it stands on its own. The system has been designed to capture and treat stormwater as an additional square footage of impervious area. They are utilizing a portion and expanding the basin that exists to the south of the existing soccer field. That is where the stormwater laces together. There is an overflow that will tie into the existing drain that runs through the site. Asked where the existing drain ends, he stated water from the existing infiltration basin overflows and ties into that existing drain that comes through the site and eventually ends up in the river beyond the railroad tracks.

Vice Chairman Boisvert questioned the maintenance schedule, and was informed, as part of the I&M Report there is a complete maintenance schedule that includes logs and the like for the applicant to track that stormwater maintenance. It includes all the components of the stormwater system, e.g., subsurface systems, catch basins, pipes.

Commissioner Rosati noted the plan did not reference Green SnowPro Certified de-icing professionals or low-phosphate, slow-release nitrogen fertilizer.

Jeff Checkoway, VP, Project Manager, Calare Properties, LLC, stated the landscape programs are open to the use of any type of product required. Noted was that the use of low-phosphate, slow-release nitrogen fertilizer and the use of a Green SnowPro Certified snow removal system have been incorporated into the subdivision regulations.

Mr. Checkoway indicated they will ensure the snow removal contractor is certified through the UNH program. Commissioner Tenhave questioned how any spills would be handled. Mr. Glowacki remarked the plumbing system inside the building is currently being designed. Buildings will be designed with appropriate floor drains that will go through the proper traps before discharging into the sanitary system.

Commissioner Tenhave questioned if known uses would result in the anticipation of large amounts of chemical storage, etc. Mr. Checkoway stated they are currently designing the building. As they get through the process, they leave those options open to design for specific uses once a tenant is involved. They will design the interior of the building for spill prevention, etc., but they do not currently have a tenant.

2. LMSNH, LLC (applicant) and Karen Roy (owner) - Review for recommendation to the Planning Board of a Site Plan to permit a pesticide company to occupy the existing building. The parcel is located at 255 Daniel Webster Highway in the I-1 (Industrial) & Aquifer Conservation Districts. Tax Map 3D-2, Lot 039.

Matt Peterson, Keach-Nordstrom Associates, stated the project to be a change of use from the prior application. Planning Board approval had been received for the prior use, however, given the economy and costs of building construction, that did not come to fruition. A new entity has put the property under agreement. The proposed use is an existing Town business currently located at 908 Columbia Circle. This proposed use is not looking for additions to the building or squaring off the building. The building would be utilized as it is today. There is no retail drive-up or drive-in. It is mainly a locker room and storage building for their use. They will have their vehicles in the existing parking spaces. Employees will arrive in the morning, pick up their vehicle and go out. The building will be used for employees to arrive and change. They have a call center in Massachusetts that handles all facilities coming in and out of the site.

There will be materials stored onsite (typically three 30-60-gallon product) each being on a spill prevention system. Spill prevention kits will be located inside the building. The company is permitted by the New Hampshire Division of Pesticides and is subject to random and periodic inspections.

Parking that was up in the front corner is being removed resulting in a decrease in the drainage that goes to the two infiltration basins.

Chair Perkins noted Note #9 on page 5 mentions low phosphate and should be worded as "no phosphate". He questioned materials that may be left in the vehicles in the parking lot, and the containment plans.

Mr. Peterson stated they do not mix anything on the trucks until reaching the site. They have water on the trucks, individual containers with the three different types of products. They go into the building where a mechanical pump pumps it into their containers that are brought out to the vehicles. The spill containment kit is for being moved off site. Asked, he stated the parking lot has two infiltration drains. The Commission will be provided with the exact size of the containers described as small.

Commissioner Drouin commented on a member of the Town Council having shared an article from a government source saying certain mosquito sprays contain PFAS. He questioned if the varieties utilized contain PFAS. Mr. Peterson was uncertain. He will look into the question and provide a response (via email to the Community Development Department).

NEW BUSINESS

1. Public Works Department - Wetlands Permit Application

Dawn Tuomala, Deputy Director/Town Engineer, PWD, stated last October the Town Council approved installation of a new sidewalk on Woodbury Street that would connect the High School with Daniel Webster Highway. Her charge has been to design a 5' wide paved sidewalk that runs down the southerly side of Woodbury Street. There is a small area of wetlands that will have to be filled in to construct the sidewalk. The project went before the Souhegan River Advisory Committee as the area falls within 1,250' from the Souhegan River. The Advisory Committee will support the project. Given the small area involved, an expedited wetlands application is being requested.

A slide was shown depicting the topography of the area. As part of the project, the entrance will be widened to meet the 24' to make the turning in and out improved along Woodbury Street. The plans are not quite finished.

The only area that will be impacted is along Woodbury Street. There is a drainage ditch that runs down the side of the street. The sidewalk would run 5' wide all the way down the street. The paved curb will be replaced with granite and the sidewalk put right up against it, which is the best way to address it given the typical 3' grass panel is absent. There will be a 2' shoulder. There is a deep ditch line and swale that comes down through the street. The desire is for a buffer.

The area highlighted on the plan in blue is the area that will be impacted with fill into the ditch line. That ditch line is a wetland. It is not a stream, etc. In the past what they have seen is several catch basins with outfalls. She will look to treat the water coming out and utilize riprap level spreader berms/rock coming across to slow the water down and hold some of it back. Highlighted were the areas of catch basins. She is not proposing to change a lot of the drainage, which is fairly new (have sumps). Basically the site will function and stay the same as it has been.

A small amount of pavement is being added to be able to widen the road out 24'. The land area to do that is available. The other side of the street is right up against the right-of-way line. On the slopes that will be cut, there will be slope stabilization. Photos of the wetland area were displayed.

Commissioner Drouin questioned if the sloped granite would allow turtles to climb over the sidewalk. Deputy Director Tuomala commented there is no place for them to go to across the street. The larger wetland is located down the road. Were sloped curbing to be used it would be easier for a car to mount it.

Asked if rainwater that comes off the road is currently entering the wetland area, and, if so, would that stop once the granite curbing is in place, Deputy Director Tuomala stated it would not change from what it does today. There is currently curbing in the area, which is simply being replaced. The catch basins have been there for years. Vice Chair Boisvert questioned if there have been washout problems in the past. Deputy Director Tuomala responded she is not aware of any and would guess that is probably why the curbing was put in years back.

Commissioner Tenhave remarked with an expedited wetlands permit there is the need for authorizing the Chair to sign the application on behalf of the Commission. By doing that we waive our rights for an extended review period and are basically saying that we believe that the project, as proposed, is okay. It does not mean we cannot follow it up with a letter to NHDES and give them our thoughts on it. It allows NHDES to move forward with their process and not wait the potential 40 days that the Commission could have to provide input.

Where the application is not yet here, we would be going on what Deputy Director Tuomala is indicating and then providing the Chair the opportunity to sign off.

Commissioner Tenhave questioned the total permanent impact and was informed it would be 2,431 s.f. Asked what the mandatory mitigation, if any, would be, Deputy Director Tuomala indicated there is no mandatory mitigation. The project could go up to 3,000 s.f. without a mitigation requirement.

Commissioner Tenhave commented, in nesting season, turtles will move out of the wetland to the uplands to lay their eggs, and the young will make their way back to the wetland. Having a curb that is an abrupt 90° angle will prevent turtles, if they happen to have hatched on the opposite side of the street, from getting across the street, up over the curb, and down to the wetland. He suggested it would be a good strategy to consider a tapered curb or if there is a means of making tapered curbs every so often to provide for that.

Deputy Director Tuomala doubted they would travel up Woodbury Street given the level of steepness. The only area she could think they could possibly cross is an area where there is a driveway that goes out back to the car facility. Presently there is no curbing in that area. She pointed out an area where a crossing could be accommodated and questioned if it would satisfy the need if some sloped curbs were done in the section likely to be traveled. There currently is no curbing on the north side.

Commissioner Tenhave stated appreciation for the suggestion, which he believed to be reasonable. Commissioner Drouin stated agreement.

MOTION BY COMMISSIONER ROSATI TO AUTHORIZE THE CHAIR TO SIGN, ON BEHALF OF THE COMMISSION, ANY DOCUMENTATION OR APPROVALS REQUIRED FROM NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES TO MOVE THIS PROJECT FORWARD

MOTION SECONDED BY VICE CHAIR BOISVERT

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

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

6

Nay:

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MOTION CARRIED

2. Sklar Waterfront Park street address

Vice Chair Boisvert spoke of communicating with Sharon Marunicz, Director, Human Resources. He was made aware the Police and Fire Departments are looking to identify an official street address for the Sklar Waterfront Park and have suggested it be a continuation of Griffin Street. Commissioner Tenhave stated his recollection the parcel is identified on the tax map as Caron Street.

Commissioner Drouin questioned if the road going from Griffin Street down through the tunnel would be removed from the map, noting without it, it is difficult to find the entrance to Sklar.

Commissioner Tenhave stated his belief it is the Fire Department that has the final say on addresses.

Commissioner Glenn spoke of an email received from Sharon Haynes; the parcel where Sklar is located is an unnumbered lot off Caron Street. She reached out to the Fire Marshall who is responsible for assigning property addresses, and he said he could give the parcel an address on either Griffin Street or Caron Street. An address on Griffin Street seemed more logical to her because of the parking lot. The Fire Marshall confirmed that the end of Caron Street opens into an undeveloped wooded area.

Commissioner Tenhave shared a screenshot of the GIS system, which shows 12 Griffin Street, which is the unnamed road that goes down under the railroad tracks and out towards the Town lot and Sklar property. He suggested the park could be called Griffin Street or the unnamed road could be named.

The consensus of the Commission was for the Sklar Waterfront Park street address to be on Griffin Street.

3. Sklar Waterfront Park River Trail & Ferry Trail approval

Commissioner Drouin displayed a map highlighting the parking lot and boat launch areas. Members of the sub-committee walked the property and flagged where they believed the best paths would be based on how the land floods. The area seen as the River Trail would go from the boat launch to the area where it crosses Naticook Brook. Ferry Trail would go until nearly the posted “no trespassing” sign. There is no loop, which means users of the trail must turn around and go back and then straight to reach the parking lot area. The trails are 1.37 miles (combined).

Vice Chair Boisvert commented where it crosses the brook is the area of the old stone bridge. Asked if the intent is to utilize trails that already exist, Commissioner Drouin stated they are all existing trails.

Vice Chair Boisvert commented on the desire for an eventual plaque in the ferry launch area (Thornton’s Ferry). Anita Creager, Historical Society, is researching that.

There is the need for a ramp coming down from crossing the bridge. At the end of the River Trail there is a steep slope requiring attention (stepping structure).

Asked about the process of identifying a new trail, Commissioner Tenhave responded, ideally, we would like to reuse what already exists. We want to ensure we account for erosion control and issues such as that, e.g., planning on how to handle steep slopes and the water that comes rushing down (use of water bars, riprap). You would want to get water off the trail every so often as you go down. You want to ensure not traversing through any sensitive wildlife or plant life. You would want to be aware of poison ivy patches (or post warnings), etc. Need to ensure we follow all the rules so that we do not ourselves create issues with plants and wildlife spaces and introduce people into areas where they could be aggravating wetland issues, etc. The biggest thing is we would like to encourage people to enjoy our properties, but they are conservation properties, which means we do not want to have trails crisscrossing all over the place. It is not a recreational spot. There is a balance. As you decide to add more trails, you may want to decide to shut off certain trails that are already there.

Chair Perkins questioned if signing the trails would be enough to discourage use of the trails the Commission would like to see not used. Vice Chair Boisvert noted the existence of dozens of signs that have helped a lot but have not eliminated use of other trails. Boulders have been strategically placed, but some have been removed. He suggested some larger rocks could be placed down by the river (to stop vehicles from driving past the boat launch). Commissioner Tenhave commented the more we get people on the trails the less the unwanted behavior will occur.

The consensus of the Commission was to move forward with the naming and designation of trails as proposed.

4. Wooden Trail Signage

Vice Chair Boisvert remarked this was brought up for discussion during the last meeting. He provided examples of the vertical post signs the Town made some 13-14 years ago, which can be seen at the Horse Hill Nature Preserve (HHNP) and in Grater Woods. The vertical posts are used at the major intersections; however, he would like to see these types of signs for other areas on these and other properties. If lettering or directional arrows are routed when the coloring fades, the signs can still be read.

There is a need for signage. Vice Chair Boisvert sent an email to the PWD to determine if they are willing/able to do signage over the winter. If the department is unable, there is the need to supply material and look for someone who can construct the signs.

Noted was that the Forest Service, Appalachian Mountain Club, and other entities utilize the same type of signage (pressure-treated lumber, routed lettering, yellow/gold coloring). Commissioner Rosati commented on being aware of at least one resident who does this type of work. She suggested soliciting quotes.

Andrew Duane, Secretary, Wildcat Falls Sub-Committee, noted the Wildcat Falls Sub-Committee made its own signs for the property. They were unaware the PWD had the ability to do that. The endeavor took an afternoon (all intersection signs). Asked if they had routed lettering, he indicated they did. A former member of the sub-committee had stencils for the signs, and he and his wife painted them.

Vice Chair Boisvert stated the desire for signage on all properties to be uniform with the routed lettering. If unable to be constructed by the Town or volunteer(s), there would be the need to contract with a vendor. Chair Perkins spoke of being in favor of the proposed design.

5. Stick Bridge Replacement in Grater Woods - Estimate Review of Materials

Vice Chair Boisvert referred to quotes provided for the materials requested to replace the stick bridge with a proper bridge. The quote from Reeds Ferry is \$317.42 (uncertain if that includes delivery). The quote from Home Depot (does include delivery) is \$361.42. He spoke of his preference to go with a small local business. Noted was that delivery of the lumber would likely be on land in Amherst (unable to get all the way into the gate on Grater Road). The Amherst Conservation Commission should be informed of the possibility there could be a pile of lumber located there for a day or two (pieces are 2x6x16' and 12'). Chair Perkins questioned when the delivery could be made. Vice Chair Boisvert stated he would reach out to former Commissioner Caron once the expenditure is approved, and coordinate delivery and construction dates.

MOTION BY COMMISSIONER ROSATI TO APPROVE AN EXPENDITURE IN AN AMOUNT NOT TO EXCEED FOUR HUNDRED DOLLARS (\$400.00) TO COVER THE COST OF THE MATERIALS NEEDED TO CONSTRUCT A STICK BRIDGE REPLACEMENT IN GRATER WOODS. FUNDS ARE AVAILABLE IN FUND 53

MOTION SECONDED BY VICE CHAIR BOISVERT

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

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

6

Nay:

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MOTION CARRIED

OLD BUSINESS

1. Chapter 111 recap from Town Council Meeting

Commissioner Tenhave spoke of the presentation provided to the Town Council. The presentation outlined what is currently identified in the Ordinance and the properties that are affected. He addressed the changes the Commission recommends. Questions revolved around the use of firearms and spring powered rifles (clarification as to what those really are). The meeting resulted in a few suggested changes. Commissioner Tenhave stated the desire to understand the will of the Commission, e.g., accept the recommended changes or provide additional feedback/recommendations to the Council.

The next step in the process is to draft the Ordinance Language, which means legal counsel will be involved. Once the draft language is ready for presentation, the Commission will conduct a public hearing to obtain public input before bringing the language before the Town Council.

There was discussion around E-bikes. The Commission proposed no E-bikes on the properties. The Town Council indicated a desire to allow Class I E-bikes (require user to peddle to get the electric assist). They are limited as to how fast you can go. With Class II users do not have to peddle. Class III is bordering on a motor bike.

Vice Chair Boisvert stated concern with the unintended consequences of allowing E-bikes on the properties. Commissioner Drouin stated agreement. Commissioner Rosati questioned if a Class I is what an individual with a disability would be riding. Commissioner Tenhave remarked it depends on the individual, which is why there is an overriding Federal statute that allows people with disabilities to utilize a special motorized adaptive bike. In the case of someone with a handicap, it is covered outside of the Ordinance. That can be addressed with legal counsel to ensure that is covered. He is doubtful a Class I would be acceptable in that case.

Commissioner Rosati agreed with the concern of allowing E-bikes. Chair Perkins commented this is the issue the Commission seemed to debate the most. At the time, the classifications were not well known. A lot of the concerns raised around prohibiting E-bikes on the properties were regarding the higher-class bikes. The greatest concern was with someone going uphill on an E-bike at 20 mph and someone coming down at the same speed on a traditional bike. He does not believe the Class I E-bikes rise to the degree of the concerns that were stated.

Commissioner Glenn spoke of concern that individuals may not be able to differentiate between classes of E-bikes and will simply see that E-bikes are allowed on the properties. She spoke of properties where motorized vehicles are not permitted.

Commissioner Tenhave stated certain properties have the “no motorized” restriction, and that will not change. That is identified within the deeds and are considered the “all passive” properties (13 of the 62). He noted the HHNP would be one of the properties where Class I E-bikes would be permitted. The “no motorized” only applies to the OHRVs on that property. That was not decided, but a decision of the Commission.

Commissioner Tenhave commented if standing firm around the desire to prohibit E-bikes, he believes changing Chapter 111 would be a non-starter, and there would be no change at all. Chair Perkins echoed one of the sentiments he noted from the Town Council meeting was the desire for this to be permitted on properties that were purchased utilizing public funds.

Commissioner Rosati spoke of concern with the speed of E-bikes on trails shared with pedestrians. She questioned where the liability would be. She believes it a terrible idea to allow Class I E-bikes onto the property as she believes it will pave the way for all E-bikes.

MOTION BY COMMISSIONER TENHAVE TO ALLOW CLASS I E-BIKES ON THE PROPERTIES
MOTION SECONDED BY CHAIR PERKINS

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

Yea: Chair Perkins, Commissioner Tenhave

2

Nay: Vice Chair Boisvert, Commissioner Rosati, Commissioner Glenn, Commissioner Drouin

4

MOTION FAILED

Commissioner Tenhave stated he received clarification there is a Fire Warden. The Commission had recommended there be no fires permitted on the properties because of language around a Fire Warden and requiring Commission approval. When it comes to fires and some of the other items the Commission recommended not be permitted, e.g., camping, it was decided there could be general language in the Ordinance that said you can have those with permission of the Town Council or its designated agents, which is like what the Commission had done in a couple of other places.

Commissioner Tenhave stated he had planned to re-draft the language as to what the restrictions are and then say that it can be done by exception; specifically taking the Commission out of the approval cycle as we have no ability, as a Commission, to do enforcement.

Vice Chair Boisvert spoke of individuals setting up overnight structures absent permission, e.g., log/tarp structures, tents. He questioned if there exists language indicating that is not permitted without permission.

Commissioner Tenhave stated the Commission was proposing camping be prohibited absent permission. If an individual is taking trees down to erect a shelter, they are destroying a property. In instances where individuals set up tarps for shade and leave them by the river, it is then trash. Currently, there is no language for that. It could be an added suggestion. Vice Chair Boisvert stated a desire for language permitting the Commission to remove items believed to be trash, etc. Commissioner Tenhave commented as owners of the property we can do what we want. Vice Chair Boisvert stated the desire to simply ensure that is addressed in some way.

A request was made by the Director of Parks and Recreation that where our property on Wasserman Conservation Area abuts the Wasserman Park, that we erect signs along the property line informing dogs are required to be on a leash once entering Wasserman Park. The Commission had suggested not covering dogs in Chapter 111 as there is already a dog ordinance. The dog ordinance throughout Town is that dogs be under the owner's control and picked up after. The cost of signage would be that of the Commission as the entity looking to change the language/rule.

Commissioner Tenhave noted the Commission had stated that all properties would prohibit OHRV traffic. The only place where it had been permitted was Grater Woods. Over time, the Right Riders have ceased to support that use and participating at the committee level. The Town Council questioned, and Commissioner Tenhave referred to the language that states at HHNP no OHRVs until there is a State-approved organization to support that use and maintenance. The Town Council has requested language that would allow the Commission to review a request if coming from a State-approved group that comes together and wants to support the maintenance required for OHRV without having to change the Ordinance.

He stated his hope if a group came together the Commission would have the opportunity to weigh in on what trails would and would not be appropriate.

Commissioner Tenhave remarked one of the property types is well property, and he has not received feedback from the Merrimack Village District (MVD) as to whether they want any special restrictions on the few properties the Commission has that either contain a well or are adjacent to a property having wells. He will reach out to the MVD for that feedback.

Commissioner Tenhave questioned the opinion of the Commission relative to the belief the Town Council will not go forward with the recommended changes if the “no E-bike” restriction remains. He questioned the will of the Commission.

Vice Chair Boisvert suggested language around E-bikes could be like that which has been requested around permitting OHRVs under the conditions stated. Personally, he would not want to see any of that language.

Chair Perkins stated the Town Council provided few suggestions for changes to what was proposed. He does not believe they would support the proposal if it does not embody the four recommendations provided.

Commissioner Drouin stated his belief it would be reasonable if an approved organization were willing to maintain the trails and be liable should someone be injured. Commissioner Tenhave spoke of not being aware of any State-approved E-bike organizations. He questioned the issue of liability. Commissioner Drouin spoke of the higher chance of serious injury if an E-bike is involved in an incident on a trail. Commissioner Tenhave stated his understanding of the law to be that, if a fee is not charged to use the property, the Town is not liable. It is his opinion that the individual operating the vehicle would be liable for whatever damage they create to themselves or others.

Vice Chair Boisvert questioned if an E-bike, as a motorized item, could be part of the motorized conditions. Commissioner Tenhave stated his belief it could; however, questioned the kind of group that should be advocated for if the desire was there for utilizing E-bikes on the property, e.g. State approved E-bike group, State approved OHRV group, State approved snowmobile group. Vice Chair Boisvert was uncertain. Commissioner Tenhave remarked he was not trying to work against the desire of the Commission, just trying to identify the difficulties.

Commissioner Drouin remarked he was trying to find a way around a perceived obstacle. Asked for her impression of the discussion that occurred at the Town Council meeting, Commissioner Glenn stated she believes the Council was very leery of accepting the idea of prohibiting E-bikes. She found it to be frustrating as she does not believe that, in the past, support has been as available when situations have come about; not to the level that would have been likely if the property in question was a park. If allowing something that has the potential to cause problems, the Commission is the entity that will have to address it and potentially not have the support. She would not want to see the entirety of the effort go by the wayside.

A similar situation would occur if the Commission were to become aware of a fire on a property when not being involved or having the knowledge of whether it was an approved campfire. She was uncertain the direction the Commission would take in such an instance. Commissioner Tenhave stated the Commission would reach out to either the Town Council or designee that was charged with approving the activity. He suggested the process could include notification to the Commission when an activity is approved.

Commissioner Glenn questioned if the absence of a restriction for E-bikes indicates they are permitted or an area the Commission has some leeway with. Commissioner Tenhave responded if not specifically prohibited it is permitted. Commissioner Glenn commented at the onset the Commission decided no E-bike would be permitted and signage was put up in some areas. It was noted that would not be enforceable. Someone could lobby to have the signage removed.

Commissioner Rosati remarked, if the desire of the Town Council, it will be.

Commissioner Tenhave commented there is the option of not addressing E-bikes in the Ordinance and therefore they are allowed. The problem you run into is that it would then be all classes of E-bikes. He suggested it be stipulated only Class I E-bikes and see how it goes. If it becomes a problem, we document it. It is an Ordinance that could be changed in perhaps a month and a half if the will of the Town Council.

Vice Chair Boisvert remarked the Town Council can accept the recommendation of the Commission or choose not to. Commissioner Tenhave noted he was looking to draft the Ordinance. He is happy to put the language in there and inform the Town Council of the Commission's disagreement with the requested language. He requested those who voted against the language provide information to be presented or be present at the meeting where the language is put before the Town Council. He questioned the will of the Commission, e.g., stop the effort or put the requested draft language forward and raise opposition during the public hearing process with the Town Council.

Vice Chair Boisvert stated support for drafting the language as requested and raising the opposition of the Commission during the public hearing process.

Commissioner Tenhave noted the Commission would have another opportunity to discuss the matter leading up to and during its own public hearing.

Chair Perkins stated agreement the draft Ordinance should be drafted with the language requested by the Town Council. The Commission can then raise its objections throughout the approval process.

Commissioner Glenn stated agreement noting if problems arise, the matter can be brought forward again.

Chair Perkins commented he would have difficulty arguing that a Class I E-bike would cause more damage to a property than a mountain bike or dirt bike. The concerns discussed were around safety.

The consensus of the Commission was to draft the Ordinance with the language requested by the Town Council.

Commissioner Tenhave stated the process will extend beyond his membership on the Commission and requested a vote to authorize him to continue to act on behalf of the Commission.

**MOTION BY COMMISSIONER ROSATI THAT TIM TENHAVE, WHETHER A MEMBER OF THE COMMISSION OR NO LONGER A MEMBER, BE AUTHORIZED TO CONTINUE TO REPRESENT THE COMMISSION ON CHAPTER 111 PROCEEDINGS
MOTION SECONDED BY COMMISSIONER GLENN**

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

Yea: Chair Perkins, Vice Chair Boisvert, Commissioner Rosati, Commissioner Glenn,
Commissioner Drouin

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Nay:

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MOTION CARRIED

Commissioner Tenhave Abstained

OTHER BUSINESS

There being no objection, the Commission went out of the regular order of business to take up Sub-Committee Updates

2. Sub-Committee Updates

- *Joint meeting with Wildcat Falls Subcommittee*

Andrew Duane

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.

At this time, there are no concerns to report; however, peak summer has not yet arrived. One specific concern that has been brought up is that there is no parking allowed on the wetland side (left) of the parking lot. Previously, a no parking sign or two were put in place. They were removed almost immediately. The Sub-Committee would like to see a fence erected with no parking signs attached to it. There continue to be parking problems in the neighborhood although not as bad as last year.

Commissioner Rosati noted she sent an email to the Highway Division asking for signage.

Mr. Duane was uncertain if feedback has been received from the Town concerning resident parking along Currier Road and other roads in the area. He questioned if there is a sense of how well that is working.

Mr. Duane spoke of working with the high school Senior Project Committee. They are planting 100 Lilac bushes and 50 small deciduous trees along the Wildcat Falls property. He was unable to reach the State concerning planting on State land. The project will stay within the boundaries of Wildcat Falls. He worked with the students to identify locations for planting. They were made aware of the need to stay clear of areas where turtles have been seen in the past. There will be no plantings along the powerline trail given Eversource clear-cuts the area every couple of years.

Commissioner Rosati remarked she had heard from a representative of Eversource who indicated interest in planting a pollinator garden. Mr. Duane stated he was aware of that, however, none of the plants available through this project qualify as pollinators. That can be investigated.

Commissioner Rosati commented one of the things discussed was whether the high school group would be interested in getting together with Eversource to plant some of the pollinators in the fall or next year. Mr. Duane stated he could not speak for the fall but is aware the senior project day is typically the last week or two of school. It is a specified school day for seniors who work on several projects.

Commissioner Rosati commented a question was asked about installation of a trash can. She is of the opinion that will not be done. The properties will all be carry-in/carry-out. Mr. Duane suggested signage at the kiosks may need to be improved.

Chair Perkins spoke of an email received regarding the plexiglass bin on the kiosk being broken. He visited the site, noted it was broken and unrepairable, and removed it. M. Duane suggested looking for a replacement made from a more natural material (wooden map holder).

**MOTION BY COMMISSIONER ROSATI TO APPROVE THE EXPENDITURE OF AN AMOUNT NOT TO EXCEED FIFTY DOLLARS (\$50.00) TO COVER THE COST OF A REPLACEMENT CONTAINER FOR PLACEMENT OF MAPS AT THE WILDCAT FALLS KIOSK. FUNDS ARE AVAILABLE IN FUND 53
MOTION SECONDED BY VICE CHAIR BOISVERT**

ON THE QUESTION

Mr. Duane commented on being aware some other properties he has visited utilize mailboxes for maps. Commissioner Rosati noted the motion refers to container, and if a mailbox can be found for under \$50, that would be fine.

Commissioner Glenn spoke of previous discussion around standardizing the type of container. Noted was that the containers at the HHNP and the Beebe Lane kiosk are the type of mailboxes that are typically found on the side of inner-city houses.

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

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

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Nay:

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MOTION CARRIED

Noted was that the Sklar Waterfront Park Sub-Committee would meet on Sunday at 5:00 p.m., and the HHNP Sub-Committee on the 8th at 7:00 p.m. in the Matthew Thornton Room.

The Commission returned to the regular order of business.

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

PRESENTATION OF THE MINUTES

The following amendments were offered:

Page 1, Line 23; insert Melissa Winters, EMT, Merrimack Fire & Rescue

Page 3, Line 20; Capitalize "Leave No Trace"

Page 4, Line 15; replace "effected" with "affected"

Page 4, Line 43 and Page 5, Line 13; insert "legal" before "counsel"

**MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED
MOTION SECONDED BY COMMISSIONER GLENN**

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

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

6

Nay:

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MOTION CARRIED

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Vice Chair Boisvert suggested the Commission remain in contact with Jeff Littleton, Moosewood Ecological, regarding Grater Woods and turtle tracking. He would like to learn of the results. Chair Perkins will follow up.

Commissioner Rosati stated she is waiting to hear back from Sarah Hardy, Girl Scout, who is putting up the selfie posts. She contacted the Commission wanting to bring the posts onsite utilizing an ATV. The posts will go into Grater Woods, the HHNP, and Twin Bridge Park. On Grater Woods, if coming in along Grater Road, there should be no issue with a motorized vehicle. Commissioner Rosati was uncertain of the area where the posts would be located within the properties. At the HHNP, no motorized vehicles are permitted.

Commissioner Tenhave stated the Commission has utilized motorized vehicles at the HHNP in support of trail upgrades, etc. It would be nice to understand the desired locations so that guidance can be provided. She will need to be provided with something in writing indicating it is acceptable for her to be utilizing a motorized vehicle for that purpose. He noted entry cannot be from the middle school as they do not allow that use.

Commissioner Rosati will follow up to identify where the posts would be located. The Commission was acceptable to allowing Commissioner Rosati the authority to approve the location(s) and provide a letter indicating Commission approval for use of an ATV for the purpose of completing the task.

Commissioner Rosati commented on an email received from Jodie Couture. She works for an organization that identifies needed projects, seeks out a corporate sponsor, and utilizes volunteers to complete projects. What is required of the recipient of the project is to provide bathroom facilities and water, distribute their t-shirts, and take photographs of the project being performed. Identified as possible projects were reforestation, trail work, and removal of invasive species.

The group is looking at the September timeframe. Commissioner Rosati suggested trail work could be done at the Sklar Waterfront Park or invasive species addressed. Commissioner Drouin questioned if bridge construction was an option. Commissioner Rosati will send the communication to the Commission for review. Commissioner Drouin stated the desire for Ms. Couture to be invited to a future meeting to discuss the possibilities with the Commission.

Commissioner Rosati read the following statement from the communication received “We are on the ground the day of the event guiding the partners and assisting with the work. We provide a brief introduction period and instruction period. We take good quality photos during the event. We ensure all volunteers sign a liability and photo release waiver. We distribute One Tree Planted t-shirts to all volunteers. We make sure all government guidelines surrounding COVID are implemented. We source all the materials for the day of the event. The costs are covered by the donors. We provide water to the volunteers and make sure an accessible washroom is provided. We provide information through follow-up form; number of trees planted, number of volunteers...”.

Commissioner Tenhave noted the organization is a not-for-profit. They collect donations and do these projects throughout the world. He is of the belief they are looking to raise awareness for their organization, which will allow them to collect more donations and further their mission.

Commissioner Drouin stated he will be scheduling another hike in the coming weeks. The schedule will be posted on Facebook.

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.

ADJOURNMENT

MOTION BY COMMISSIONER GLENN TO ADJOURN MOTION SECONDED BY COMMISSIONER TENHAVE

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

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

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Nay:

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MOTION CARRIED

The June 7, 2021, meeting of the Merrimack Conservation Commission was adjourned at 9:28 p.m.

Submitted by Dawn MacMillan