



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

MAY 17, 2021

MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, May 17, 2021 at 6:31 p.m.

Steven Perkins, Chair, presided:

Members of the Commission Participating: Michael Boisvert, Vice Chair
Gina Rosati, Secretary
Cynthia Glenn
Gage Perry
Eric Starr
Michael Drouin, Alternate Member
Ellen Kolb, Alternate Member
Tim Tenhave, Alternate Member

Members of the Commission Absent: Councilor Nancy Murphy

Also Participating: Ken Clinton, Meridian Land Services, Inc.
Sally Wilkins, President, Amherst Land Trust
Melissa Winters, EMT, Merrimack Fire & Rescue

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 2021-08), 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: 980 0559 4048).

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 Perry

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 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.

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 Kolb

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.

Chair Perkins designated Commissioner Drouin to sit in for Councilor Murphy.

PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS – None

NEW BUSINESS

1. Merrimack Fire Rescue – Safe Outdoor Recreation Program

Melissa Winters, EMT, Merrimack Fire & Rescue, spoke of increased use of trail systems. With that, it has become evident there are a lot of new outdoor enthusiasts who tend to be less prepared than they should be for the environments they encounter. Merrimack Fire has noticed an increase in the need for rescues whether for injury, lost hikers, or hikers caught out after dark. They have gotten together with department heads in Town to acquire materials for the ten essentials to be on their apparatus so that they can rescue those people safely.

Until this point, they had EMS equipment they would deploy with and large headlamps or hand-held lights, but nothing for the person they were rescuing if they were ambulatory. They have recently acquired everything they need to deploy quickly, get to the individual(s), get them warmed up, and moving again.

One of the things they do not have is a trail system map that they can manipulate for their needs. She requested the department be provided with a digital file of the trail maps. They have the paper maps, but if having the digital maps they could manipulate them for their specific needs.

Given her background in wilderness medicine and her extensive experience with long-trail hiking, she has decided to introduce a CPR class for the outdoor environment. She will also be teaching Leave No Trace, basic map reading and compass skills, staying found techniques (what to do if you are lost), self-rescue and talking about the hike safe card. The trainings will be hosted at the large building on the Parks and Recreation campus. Courses will be scheduled with the assistance of Parks and Recreation. Classes will be no larger than 6 (12 and older). Price is to be determined. She stated a desire to have a member of the Commission speak at one of those trainings.

Commissioner Perry spoke of CDs and electronic files for the paper maps being turned over to Fire and Rescue previously. Ms. Winters spoke of the recent turnover in personnel. Data was lost as a result. She is unable to locate the files.

Commissioner Tenhave noted a lot of the maps, including GPX files, are available off the website MerrimackOutdoors.org. Several of the maps were created by the Nashua Regional Planning Commission (NRPC). A request could be made of them to provide the files. As a member of the NRPC, he can be of assistance in that regard. He noted a lot of the trails are mapped and are freely available by people who cycle and participate in other activities on the properties, e.g., Trailcare.com.

2. Meridian Land Services, Inc. – Amherst & Merrimack, potential land swap

Ken Clinton, Meridian Land Services, Inc., stated he was representing the Amherst Land Trust. He was asked by Sally Wilkins, President, Amherst Land Trust, for his opinion, as a licensed land surveyor, regarding this issue.

There are two lots on the Amherst/Merrimack Town line, which were conveyed to each of the towns by the Grater family. In 2009, the Grater family conveyed Map/Lot 5A/4, which is a large parcel that contained in its description, land in Amherst, which is known in Amherst as Map/Lot 6/20-2 (approx. 1 acre tract). It happened to be in the parent description, which identified the property as partially in Amherst and partially in Merrimack. At the time, it caused no concern or alarms.

In 2013, similarly, the Grater family conveyed what is a 5-acre tract, partially in Amherst and partially in Merrimack to the Amherst Land Trust. This was brought to the Commission after the Land Trust had an interest in asking if the lots could be swapped. At the time, then Commissioner Swisher was certain it would require a formal sub-division.

Asked if he could see another way, Mr. Clinton had responded with his belief State law Section [674:53 I](#), Land Affected by Municipal Boundaries, was the perfect resolution. The RSA indicates an owner of contiguous land which is in more than one municipality can effectively use the town line as a defacto subdivision without further approval, if the lots meet zoning for the purpose of their use.

As the lot in Merrimack, that the Amherst Land Trust owns, is 1.4 acres, it certainly does not comply with Town of Merrimack standards and vice versa the lot that the Town of Merrimack owns, which is about 1 acre, in Amherst, by itself, does not comply with zoning either.

The second part of the solution could be that in addition to following the RSA for the land affected by municipal boundaries, one could consider the voluntary merger law, which allows a landowner to voluntarily merge land with an abutting piece that is in common ownership.

Mr. Clinton commented he views this as a straight and simple matter from the point of process. He believes, using the RSA, this is indeed two separate tracts. The Amherst Land Trust owns in both Merrimack and Amherst but described in one deed description treated and identified as two separate tracts certainly by tax map. It is a similar situation for the land that Merrimack owns. Land Affected by Municipal Boundaries creates two separate subdivisions by default. Apply that merger and since the Amherst Land Trust owns the lot and the immediate one to the east, they could merge what is known as Map/Lot 6/20-5 in with their holdings and likewise Merrimack could then merge their lot in with the abutting lot 5A-5.

The language in each deed has nearly similar, if not identical, restrictions relative to conservation property. They each share a clause that says the conservation property may not be further subdivided. A subdivision in that context he views as a subdivision to create a residential use. It is technically a subdivision already enacted by law, just not acted upon.

He further goes into the description of the easements more and the restrictions have several specific purposes. The purpose and intent of the conservation clause assures that the conservation property will be retained in perpetuity in the scenic, forested, wetland, and open space condition, etc. This action, as proposed, would not frustrate those conservation purposes.

Mr. Clinton stated his view this is a simple and clean way to effect the exchange of land owned in Merrimack by the Amherst Land Trust as well as land in Amherst owned by the Town of Merrimack. He is uncertain if former Commissioner Swisher felt there were other concerns. In his review and experience, he believes the two RSAs apply to this perfectly, smoothly, cleanly, and simply.

Commissioner Perry stated he and Commissioner Swisher were getting their opinions of what had to happen from Town legal counsel and legal counsel in Amherst. If it is believed there is a way around it, the Commission has been supportive of the swap from the onset.

Mr. Clinton stated he informed Ms. Wilkins he is uncertain if this would be a full subdivision. At this point, he was consulting pro bono. What he proposed to Ms. Wilkins was that he write a summary of his opinion from a land surveyor standpoint, applying the law, and provided it to the Land Trust Attorney, Tom Quinn, Esq. Were Attorney Quinn to concur, he could forward the letter along with his cover letter to Merrimack Town Council, and see if there is concurrence at that level. He is of the opinion the simple exchange of deeds is all that would be necessary, e.g., does not see the need for additional surveys, the description of the properties could be the tax map/lot numbers and reference to the recorded plan. He believes it to be as simple as he has made it out to be.

Commissioner Tenhave asked if the abutting properties carry the same or similar conservation language. Mr. Clinton stated that is absolutely the case.

Commissioner Perry remarked he is uncertain if there has been a formal vote by the Commission in the past, but the Commission has certainly given the green light to this land swap at least twice. Commissioner Rosati questioned what the cost would be (per town). Mr. Clinton stated if a company does not have to perform additional on the ground survey work, which he believes is unnecessary, no new plans or survey plans of any kind should be required, then there are attorney fees. There would be some level of deed review and acceptance through Merrimack Town legal counsel and the Merrimack Town Council.

Mr. Clinton stated he would write his letter to Attorney Quinn who in turn will hopefully concur and pass that along to the Commission for review and consideration of forwarding to the Town Council. Commissioner Tenhave suggested that to be the right direction to take. For this parcel to become a Merrimack parcel it will have to follow the Commission's land purchase procedure, which requires a public hearing and approval before bringing before the Town Council for their approval. Mr. Clinton stated he would copy the Commission and Merrimack Land Trust on his communication to Attorney Quinn.

OLD BUSINESS

1. Turtle Tracker Removal

Commissioner Rosati stated there to be turtles with trackers that need to be removed. There is a fee for this service. Jeff Littleton, Moosewood Ecological, has indicated \$5,000 would be the highest possible cost, but he expects it will come in much less. At this time of year, the turtles are on the move, and will be the easiest to locate.

Commissioner Perry remarked this is the second time the Commission has engaged in this activity. He does not recollect there being a separate fee involved the last time. Should this activity be undertaken again, he would like to see this aspect included in the contract. He found the information obtained through the process to be interesting, but costly. Vice Chair Boisvert echoed the remarks he was surprised to hear there is an additional fee to remove the trackers. Chair Perkins noted a large variable is the number of times someone will have to go out to locate the three Blanding Turtles and harvest the trackers. This is the time of year they are easiest to find.

**MOTION BY COMMISSIONER ROSATI TO PAY TO MOOSEWOOD ECOLOGICAL AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000) TO REMOVE THE TURTLE TRACKERS. FUNDS ARE AVAILABLE IN FUND 53
MOTION SECONDED BY COMMISSIONER PERRY**

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

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

7

Nay:

0

MOTION CARRIED

2. Seedling Giveaway Recap

Commissioner Perry noted the Commission received fewer seedlings than expected. Overall there were 325 trees for the event and approximately 25 remain. He suggested they could be planted with the lilacs that are being donated. Commissioner Rosati stated she is awaiting information from Eversource on how tall the lilacs are as there are restrictions for planting under the powerlines.

Overall, slightly over \$400 was expended. Commissioner Perry will speak with the Town manager's Office to seek a refund from the State for the seedlings that were not received. He commented on being a little late this year in the planning/ordering, which is why the Commission received the seedlings it did.

Vice Chair Boisvert spoke of the expectation of a Grater Woods Report from Moosewood Ecological. It was postponed due to COVID. He questioned the timing for receipt of the report. Commissioner Tenhave commented the Commission never received the final report or the presentation. Mr. Littleton was before the Commission at one point, but no tangible report has been provided.

Chair Perkins stated a reminder would be sent with the communication regarding the turtle trackers.

Vice Chair Boisvert noted receipt of an email from former Commissioner Caron containing a parts list for how to construct the bridge in Grater Woods. Chair Perkins suggested Home Depot be contacted for an estimate with the intent of voting on the expenditure at the next meeting.

Vice Chair Boisvert questioned the procedure for larger expenditures. Commissioner Perry stated a quote can be requested and provided to the Community Development Department so that the Town can arrange for payment. He noted the Commission has purchased through Home Depot and Reeds Ferry Lumber, which have been supportive of the Commission in the past.

OTHER BUSINESS

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

2. Sub-Committee Updates

Commissioner Starr noted the Academy of Science and Design's walk-a-thon in the Horse Hill Nature Preserve (HHNP) has been scheduled for Friday, May 21st from 3:30 - 5:30 p.m. The expectation is for 13-15 cars in the parking lot (maximum of 20). They will be selling lemonade and have committed to ensuring no rubbish is left behind. An email was sent to the members of the HHNP Sub-Committee to ensure awareness.

Commissioner Rosati noted members of the Wildcat Fall Sub-Committee will join the Commission at its meeting scheduled for June 7th.

Vice Chair Boisvert stated the Sklar Waterfront Park Sub-Committee is set to have its first meeting on Sunday, May 23rd at 6:15 p.m. at the property.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. May 3, 2021

The following amendments were offered:

- Page 3, Line 49; replace “bears” with “fur bearers”
- Page 4, Line 16; replace “Perry” with “Perkins”
- Page 5, Line 35; capitalize “Planning”
- Page 6, Line 38; replace “parcel” with “parcels”

**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 Perry, Commissioner Starr, Commissioner Drouin | 7 |
| Nay: | | 0 |

MOTION CARRIED

PUBLIC COMMENT

Sally Wilkins, Amherst Land Trust

Stated she was present to answer any questions related to the Amherst Land Trust. Chair Perkins noted the item was well represented by Meridian Land Services.

COMMISSIONER COMMENTS

Vice Chair Boisvert suggested the Commission work to have its signage a consistent design, e.g., posts having green background with routed white letters. He would like to see the Commission conduct outreach to see if volunteers having that talent/ability are willing to provide that service.

Commissioner Perry stated the need for a standard to be identified noting the Commission has received support from the Town for posts. Asked if the Public Works Department would be able to produce property signage, he stated a request could be made. Commissioner Rosati suggested the need be posted to the website and that three (3) different quotes be sought.

Vice Chair Boisvert noted the need for larger property signage as well as the smaller trail signs. He will provide the Commission with an example of the type of signage desired. A discussion will be added to the agenda for the next meeting.

Commissioner Rosati spoke of sharing some of the writing responsibilities with Commissioner Kolb, specifically grant writing. She suggested an upcoming agenda include a discussion of grant opportunities.

Chair Perkins stated the American Rescue Plan Fund request was sent off to former Commissioner Caron understanding he has done work regarding the costs that have been incurred. He will follow up with him on the matter.

Commissioner Tenhave reminded the Commission he would be before the Town Council on May 27th to present the proposed Chapter 111 updates.

Asked when the Commission might be able to resume in-person meetings. Chair Perkins responded that would occur after July. Currently in-person meetings are conducted in the Mathew Thornton Room and the School Board meets in that location on the same evenings the Commission meets. The Commission could consider changing its meeting dates.

Commissioner Drouin questioned if a list is available for desired projects the Scouts could consider. The Sub-Committees will be asked to provide project lists. Discussion of proposed projects will be included on the agenda for the Commission's first meeting in July.

Chair Perkins informed the Commission he contacted Andrew Butler, UNH Graduate Student who was thoroughly appreciative of being permitted to conduct his study and has promised to share his findings with the Commission.

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

ADJOURNMENT

MOTION BY COMMISSIONER PERRY TO ADJOURN 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 Perry, Commissioner Starr, Commissioner Drouin

7

Nay:

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MOTION CARRIED

The May 17, 2021 meeting of the Merrimack Conservation Commission was adjourned at 7:33 p.m.