



## Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

### MERRIMACK CONSERVATION COMMISSION

MAY 3, 2021

### MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, May 3, 2021 at 6:30 p.m.

Steven Perkins, Chair, presided:

Members of the Commission Participating: Michael Boisvert, Vice Chair  
Gina Rosati, Secretary  
Gage Perry  
Eric Starr  
Michael Drouin, Alternate Member  
Tim Tenhave, Alternate Member  
Councilor Nancy Murphy (arrived at 6:43 p.m.)

Members of the Commission Absent: Cynthia Glenn

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](#) (extended by Executive Order 2021-06), 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: 939 7114 3384).

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).

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 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 his vehicle, attendance in person was not reasonably practical due to COVID-19, he was alone in the car, 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 Drouin to sit in for Commissioner Glenn and Commissioner Tenhave for Councilor Murphy.*

**PUBLIC COMMENT** - None

**PUBLIC HEARINGS** - None

**APPOINTMENTS** - None

**STATUTORY/ADVISORY BUSINESS** - None

**NEW BUSINESS**

1. Scott Delibac – tapping trees on Town owned land located at 1 Robin Lane and 17 Eagle Drive

Scott Delibac, 6 Falcon Drive, spoke of having been before the Commission in 2016 with a request to tap trees at Wasserman Park. The request could not be approved due to covenants on the land. He was informed should he identify an alternate location the request could be revisited.

Tapping and maple syrup has been a hobby of his that has grown every year. He was overseas for a few years and returned in 2018. He started the hobby back up and is currently tapping 4 locations in Town. This year he started running a tubing system with a small vacuum pump on his property with good results. He began exploring the adjacent property and discovered a good number of maple trees. Were he able to utilize that location he could stop tapping at some of the other locations and gain savings in the time required to pump sap at night just to bring it home and process it.

Chair Perkins noted the property in question is Town owned land. It is not property managed by the Commission.

Mr. Delibac stated he was informed by the Town Manager's Office that the property falls under the umbrella of the Commission.

Commissioner Tenhave stated uncertainty the property in question is Commission property based on neither parcel being designated as proposed for Chapter 111. In fact, his understanding is this parcel was on a list of potential places where ballfields could go as part of the athletic fields study that was done 10<sup>±</sup> years ago. He does not doubt it is conservation related as he recalls a different issue that was addressed on the property years ago. To his knowledge, the Commission has no real tie to the property.

Mr. Delibac spoke of a drainage ditch and Public Works Department (PWD) sewer pipes on the property, which he believes to be more for storm overflow. There are no hiking trails, etc. A neighbor of his, who has resided in the area for approx. 30 years, has indicated, at one time, there were snowmobile trails on the property. They were cut off due to development.

Although the Commission can provide a recommendation, the proposal would be required to go before the Town Council for approval.

Asked how he would get power to the parcel, Mr. Delibac replied the desire is to extend the lines he currently has on his property.

Vice Chair Boisvert commented the circumstances of the prior and current requests are vastly different, e.g. no trails on the proposed property.

Commissioner Perry commented if Town property is to be used in a commercial sale, it is something for the Town Council to weigh in on. Mr. Delibac stated his understanding that would be the case. Commissioner Tenhave noted the last time the proposal was before the Commission Mr. Delibac had a proposed agreement with the Town attorney, etc.

Chair Perkins questioned if Commissioners had reservations or were of the opinion a recommendation could be provided to support the proposal. Commissioner Tenhave stated it is certainly a situation that would set a precedent, which will have to be considered by the Town Council. The same discussion was had when individuals wished to take firewood off Commission properties.

There is the need to ensure no harm comes to the trees; there would have to be some limitation on number of taps, etc. He suggested Mr. Delibac address that in his presentation to the Town Council. Mr. Delibac stated he uses industry standards, which are based on the size of the tree. Commissioner Tenhave spoke of the need to ensure safety is addressed for the public as well as Mr. Delibac (he would be performing activities on Town owned property).

Commissioner Perry suggested the presentation address longevity, e.g., re-tapping the same tree and how that is done.

***Chair Perkins stated, if receiving a request for a recommendation from the Town Council, the feedback of the Commission will be provided.***

## **2. UNH Student Field Study**

Chair Perkins stated Andrew Butler, PhD student at UNH Department of Natural Resources & the Environment Master of Science, is looking to conduct a study on fur bearers on conservation commission managed lands. He has provided a copy of his research proposal for review by the Commission. Project timeline identifies April and May as the time to coordinate site access, July and August to set up trail cameras, September and October to add scent lure to a subset of cameras, set up track stations, and check track stations. Next April and May, he would remove all the cameras. The parcels of interest are Grater Woods and Wildcat Falls.

Chair Perkins questioned the will of the Commission. Commissioner Rosati stated she has spoken with the Wildcat Falls Sub-Committee; they are supportive of the project and have recommended Mr. Butler utilize the North Loop Trail believing the area along the river to be the best environment and location for photo opportunities. The only concern raised was regarding the potential for theft of the cameras.

Commissioner Tenhave questioned if the Commission wished to alert users of the potential for cameras to be in use on the property. That is not normally addressed when setting up cameras to capture inappropriate behavior on the property. Commissioner Perry remarked if the cameras are not recording audio, the video captured is legal in public locations. He does not believe there to be a need to post signage. Commissioner Perry suggested, if equipment will be brought on site, the Commission should be notified, and the Police Department informed of the activity. Chair Perkins will request notification be provided, which will be shared with the sub-committees and Police Department.

Commissioner Tenhave suggested Mr. Butler carry identification.

Commissioner Perry requested the information gained through the study, as well as photos acquired, be shared with the Commission.

## **3. Open Space Survey**

Commissioner Tenhave commented this project started with contact from a gentleman from the Amherst Conservation Commission who asked what percentage of our Town land is reserved for conservation. They are actively working a warrant article for their own town warrant and seeking research data. He had mentioned the last time the data was gathered (2014), 8.x%. of Merrimack was managed for conservation. Commissioner Tenhave remarked he is uncertain where that information was obtained. When looking at the land proposed to go into the Chapter 111 update, 9.64% of the land in Merrimack is actively managed for conservation. Since starting the Chapter 111 process a few years back, the Town and Commission have acquired two new parcels, which enlarged Grater Woods by 100 acres.

The spreadsheet provided (copy attached) shows the amount of open space (no buildings) is about 75% of the land the Town owns. Other properties owned by the Town include parks, islands, graveyards, etc. The number of acres, approx. 2,600, is identified on the first spreadsheet. Three quarters of that space is open. There are possibilities there; conservation, future athletic fields, etc. Some of the parcels are being held for potential municipal uses, e.g., upgrading the sewer system and extending it out to the Baboosic Lake area.

The school land was broken down in the charts; about 27% of the land the school district owns is open, which includes the easement area around the middle school as well as a few other parcels that the school has acquired over time, and probably will not use for buildings. Some of it is near conservation lands. Together there are large parcels for potential conservation use. The vast majority, 72%, is used for schools.

The Merrimack Village District (MVD) has approx. 3.3% of open land. Land having wells consist of a building that is small and has a dirt gravel road leading to the building. About 1/3 of MVD's land has wells on it. Another 1/3 supports the towers used to maintain pressure and have reserve, and about 1/3 is devoted to their garages, office space, etc.

A spreadsheet was provided identifying each parcel ID, owner, type, size, etc. The parcels are identified by use; "hold", which was used to identify parcels where there is a believed potential future use by the Town, "open", "not" meaning not open, and "park". Altogether there is 3,096 acres of land between the Town, school and MVD.

Commissioner Drouin questioned conservation easements and the land developers set aside. Commissioner Tenhave responded the Town and Conservation Commission only have one easement for conservation purposes; the one at the middle school, which was granted to the Town. For developments having left over acres, most are considered back lots. A lot of the back lots came to the Town in the '70s and '80s. As a Commission, in the 2000s, the decision was to discourage back lots. The preference is to have back lots gifted to the Town with some sort of a conservation easement over them, which secures them from ever being developed or utilized in a manner that precludes them being open space. A lot of the back lots are located along brooks and rivers.

Commissioner Rosati thanked Commissioner Tenhave for the research done to obtain the information and spoke of the historical information Commissioner Tenhave possesses and his overall knowledge of the Town. She questioned if the spreadsheet is something the Community Development Department would consider keeping current. Commissioner Tenhave stated a willingness to provide the information to the department noting the request.

#### **4. Possible Funding – American Rescue Plan (ARP)**

The Commission received notification that the county will be receiving \$80.8 million in American Rescue Plan (ARP) funds. Some of this funding may be eligible for conservation projects. The Commission was asked to provide information on projects that have been considered, but not completed due to funding constraints. In addition to project name, sought is the justification for the project(s) as well as approximate cost. The deadline for submission is May 15<sup>th</sup>.

Commissioner Tenhave suggested consideration be given to the completion of the bypass trail off South Grater Road. It is a \$50,000 - \$70,000 project that Dawn Tuomala, Deputy Director/Town Engineer, PWD has laid out. He believes there to be enough information available to present that project. Completion of that project would provide a safety net around the west side of Grater Woods.

Another project is the bridge over the Souhegan River at Merrill's Marauders. That is a project that has been input, through the Nashua Regional Planning Commission (NRPC), into the State's Transportation Assistance (TAP) Program. This may be another way to get that project done and allow people on the southwest side of the Souhegan River access to Wildcat Falls as well as the Town Center.

Commissioner Rosati asked for clarification what was being discussed was replacement of the existing bridge and was informed that is what was meant. The cost for repair of the bridge has been stated to be \$660,000 and replacement \$1.2 million. She spoke of discussion of a bridge coming from the ballfields that had a \$1 million plus price tag.

Commissioner Perry commented on ongoing discussion around creating access to Wildcat Falls from the ballfields behind the high school; at least a study to determine location and process.

Commissioner Rosati remarked all that is needed is a single bridge to gain access to Wildcat Falls. The question is if the desire is for a bridge from the ballfields to relieve some of the parking overload at Currier Drive. She spoke of her impression residents at the end of West Chamberlain are not pleased with the idea of people parking in the cul-de-sac. If one bridge location had to be chosen, it would make more sense to her to scrap the Merrill's Marauder bridge.

Commissioner Tenhave noted the pedestrian bridge at Merrill's Marauders also serves as access from the other side of Town to the Town Center (Watson Park, fire station, Buckley's Café, CVS, etc.). That would also finish the Town Center Trail, which is already funded, it is just a matter of getting done.

Chair Perkins suggested the Commission look to gather the required information for all three projects. Commissioner Tenhave stated a willingness to gather the information. He noted the contact was made by a Representative in Nashua; however, every Merrimack Representative should be provided the information to act as advocates. There is data available for the bypass trail off South Grater Road and Merrill's Marauders bridge. The bridge from the ballfield is conceptual currently.

Commissioner Tenhave stated he has been following the project through the NRPC; Kyle Fox, Director, PWD, and the Town have been looking to obtain a grant in the next round of ten-year funding (2032 timeframe). The replacement cost Director Fox provided the NRPC was \$1,186,000 of which the Town would contribute \$237,000 and the request through the TAP Program is for \$948,000.

## **OLD BUSINESS**

### **1. MHS Student Council & Garden Club Seedling Donation & Planting Plan**

Chair Perkins noted the seedling packages have been obtained. Commissioner Rosati has coupled the MHS Student Council and Garden Club with the Wildcat Falls Sub-Committee.

Commissioner Rosati noted she has spoken with the Arborist that works with Eversource. The student the Sub-Committee has been working with has indicated Eversource has provided 100 Lilac plants, and the desire of the group is to plant them at the powerlines. She reached out to Eversource to determine if they are acceptable to this. A response is anticipated before the end of the week. Andrew Duane, member, Wildcat Falls Sub-Committee, has stated he would walk with the group. It is believed there will be a total of 200-300 seedlings. Given the volume, she suggested an additional location be provided the group. The Sub-committee has been made aware of the type of seedlings, how tall they will grow, the amount of space required, etc. Chair Perkins spoke of the communication provided the group that identified Wasserman Park as an additional location.

### **2. Chapter 111 Presentation to Town Council**

Commissioner Tenhave stated the presentation provided last year will be updated. The current Chapter 111 covers 5 or 6 parcels. The desire is to expand it to 64 parcels. One of the driving factors around what can take



place on the parcels is language included in the Deeds. The desire is to provide a set of rules around the conservation parcels that the police could enforce. It would be a violation that would come with a potential fine.

The presentation will be provided to the Town Council on May 27<sup>th</sup>. The Commission will be provided a copy of the presentation in advance of that date.

### **3. Seedling Giveaway on May 8<sup>th</sup>**

The event is posted on the Town's website. It will be a drive-thru event as it was last year, and will begin at 9:00 a.m.

Commissioner Tenhave will post links to care instructions on each of the seedlings to the Commission's website.

## **OTHER BUSINESS**

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

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

#### **Horse Hill Nature Preserve (HHNP)**

Commissioner Rosati spoke of an email received from the Academy of Science and Design (uncertain whether from a student or the administration) requesting the use of the HHNP to do a walk-a-thon fundraiser. She responded requesting information on a date and number of cars.

Commissioner Perry questioned the purpose of the fundraiser noting the Commission has never supported using the properties for commercial profit. Commissioner Tenhave suggested the expectation be set that there would not be exclusive use of the property.

Commissioner Starr commented Grater Woods may be a location more suited for this type of event given the larger parking lot size. Commissioner Perry stated the need to get the school involved to ensure the event would not conflict with another that may be taking place.

#### **Wildcat Falls**

Commissioner Rosati stated she has spoken with the Wildcat Falls Sub-Committee. Members are planning on attending the Commission's June 7<sup>th</sup> meeting, and scheduling their own meeting. Questions posed regarding the trees and bushes that would be planted were responded to. The biggest concern expressed was missing/damaged signage from the parking lot. They have requested the PWD be asked to install additional signage (no parking along side; near wetlands). Commissioner Rosati will contact Lori Barrett, Operations Manager, PWD.

The Sub-Committee would like to see the return of the trash barrel. Commissioner Perry noted the only parcel having a barrel is Wasserman Park. That is maintained by the Parks and Recreation Department. It is up to the PWD if they are willing to take on the maintenance of a barrel at Wildcat Falls.

Horse Hill Nature Preserve

Commissioner Starr noted, at the last meeting, he informed the Commission of information provided to him regarding what seems to be a new trail going up on the HHNP that he and members of the Sub-Committee are not familiar with. White flags have been put up and preliminary cuts made.

Vice Chair Boisvert stated he visited the area. He did not, at the time, have specific information on the location in question. He did notice many side trails.

Commissioner Starr remarked having talked to several individuals, it appears this is a serial problem. Commissioner Tenhave noted the activity to be destruction of Town property and illegal.

**PRESENTATION OF THE MINUTES**

Merrimack Conservation Commission. . . . . [April 19, 2021](#)

*The following amendments were offered:*

- Page 2, Line 6; replace “Cynthia” with “Commissioner”
- Page 2, Lines 36 and 39; replace “Cobb” with “Kolb”
- Page 2, Line 40; correct the spelling of “an”
- Page 4, Line 42; replace “intents” with “intends”
- Page 6, Line 19; replace “December 5<sup>th</sup>” with “December 25<sup>th</sup>”
- Page 6, Line 27; correct the spelling of “where”
- Page 9, Line 3; delete “from home”
- Page 10, Line 13; correct the spelling of “Catey”
- Page 10, Line 37; capitalize “Scout”
- Page 11, Line 27; replace “transformer” with “transformed”
- Page 11, Line 40; correct the spelling of “LoVerme”

**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, Vice Chair Boisvert, Commissioner Rosati, Commissioner Starr,  
Commissioner Drouin

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Nay: 0

**MOTION CARRIED**

*Commissioner Perry and Councilor Murphy Abstained*

**PUBLIC COMMENT** - None

**COMMISSIONER COMMENTS**

Commissioner Rosati reminded users of the trails to wear orange noting turkey season will run the month of May.



**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 Perry,  
Commissioner Starr, Commissioner Drouin, Councilor Murphy

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Nay: 0

**MOTION CARRIED**

The May 3, 2021 meeting of the Merrimack Conservation Commission was adjourned at 8:00 p.m.

Submitted by Dawn MacMillan