



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

JULY 21, 2014

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, July 21, 2014, at 6:34 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Thomas Lehman
Michael Boisvert, Alternate
Lauren Kras, Alternate

Members of the Commission Absent: Gage Perry
Councilor Thomas Mahon
Robert Croatti, Alternate

Also in Attendance: Earl J. Sandford, Sandford Surveying and Engineering
Tom Howard, NH Conservation Real Estate

Chairman Tenhave informed the viewing audience of two full-time openings on the Commission. Individuals interested in serving in this capacity should contact Becky Thompson in the Town Manager's Office.

PUBLIC COMMENT - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

1. Reapplication for a previously approved Wetlands permit – 2007-01992

Commission to discuss and potentially recommend approval of a Wetlands permit application for a bridge replacement to access a single family home. The Commission first saw this application in 2007. Changes from original permit are the result of conditions set by NH DES. Bridge is to be accessed from Parkhurst Road (Tax Map 7A Lot 3) to meet a single family home in the Town of Bedford.

Mr. Earl Sandford, Sandford Surveying and Engineering, stated the desire to resurrect what was approved back in 2007/2008. When asked, he stated the only change from the original permit is the identification of minor as opposed to expedited.

Mr. Sandford stated the property was part of a subdivision approved in 2007. The parcel was formerly two lots located in both Bedford and Merrimack. As it was believed the better building area was on the Bedford side, the request was, if the property on the Merrimack side was deemed non-buildable, would the owner be allowed to build on the Bedford side and utilize the existing bridge, understanding it would need to be upgraded. The approval process was undergone in each of the towns, and the project is currently at the point of replacing the bridge.

The bridge incurred significant damage during severe storms in 2005, 2006, and 2007, and, as a result, the abutments were eroded. The proposal includes lifting the bridge and widening of the abutments from 16' to 32'. In 2007 everything was minimum impact and the intent was to take the existing abutments down to the water level and not touch anything below the water.

During the recent pre-application meeting, Frank Richardson, NHDES Wetlands Bureau, stated preference for the abutments to be taken down to try and achieve the original shape of the brook. Although this would result in an increase in the amount of disturbance (80 sq. ft. to 340 sq. ft.), Mr. Richardson stated the end result would justify the additional disturbance.

A HEC-RAS analysis was performed to ensure the new design could pass the 100-year flood level underneath the bridge. The applicant met informally with the Bedford Conservation Commission, and was provided feedback regarding ensuring when the old abutments are removed that they weren't working haphazardly over the top of the brook. Notes were added to the plan for erosion control and how to remove stones in a way that you are not swinging buckets, etc.

Mr. Sandford noted the foundation has been installed and some excavation work completed. The individual conducting the work passed away, and approval lapsed. The property was sold and the new owners wish to continue the construction. The property has no frontage on anything but Parkhurst Road; however, there is an emergency access, via easement, to Clifton Road in Bedford.

Chairman Tenhave noted review of the meeting minutes from the 8-13-07 Commission meeting identified the use of hay as part of the erosion control. The preference is for the use of straw. Mr. Sandford stated his belief, in the current plan everything is listed as silt fencing. Chairman Tenhave noted, if material is needed for stabilization of the silt fencing, preference would be for the use of straw.

Chairman Tenhave spoke of the Commission's preference for de-icing compounds to be minimized. Although not completely pertinent to the project, it is a comment the Commission wishes to be passed along.

When asked if all of the comments provided by NHDES (2007) have been addressed, Mr. Sandford stated they were addressed with the result of approval.

Chairman Tenhave informed the Commission of the opportunity to provide comment to NHDES within a determined number of days from the time the Town Clerk stamps the permit as complete, which occurred earlier in the day. No comments were offered. Chairman Tenhave stated he would provide written notification the Commission has no objection.

OLD BUSINESS

1. Land Broker, Tom Howard - NH Conservation Real Estate

Commission to meet with Tom Howard so he can explain what services his firm can provide the Commission in regards to helping the Commission acquire further properties for conservation purposes.

Mr. Tom Howard, NH Conservation Real Estate, provided the Commission with a copy of the agencies Brokerage Relationship Disclosure Form. As the discussion revolves around a potential contract for real estate services, the form is required by the State, and describes how the Commission would be treated as a customer prior to a contract and the type of treatment that could be expected as a client, e.g., handling of confidential information, etc.

Mr. Howard thanked the Commission for the opportunity to discuss the potential of working with the Town as a buyer representative in the acquisition of real estate. He remarked NH Conservation Real Estate focuses its business on properties that either already have conservation protections in place or the natural resource values that make them logical protection properties. They work throughout New Hampshire with the conservation community to craft transactions that feature conservation outcomes, and accomplish those goals through a combination of consulting, marketing and sales, and buyer representation.

The company brochure, a copy of which was provided the Commission, gives further background on how the company came to be and outlines the services they provide to landowners, prospective buyers, conservation organizations, etc. Their website, www.nhconservationrealestate.com, includes Mr. Howard's resume, several testimonials from clients, and a few case studies. Mr. Howard remarked the case studies segment is one he plans to expand greatly in the coming months in conjunction with preparation of his final application for recognition

as an accredited land consultant through the Realtor Land Institute, which is a program of the National Association of Realtors. He noted completion of course work of over 100 hours, the cumulative exam, and now needs only to present work product for the past 7 years. He will become the only active accredited land consultant in New Hampshire.

He commented, as the Commission has noted previously, conservation can be achieved through fee acquisition of land or by means of acquiring conservation easements to protect the values and resources while leaving the lands in the hands of the landowners. He is well versed in all methods of conservation land protection.

He highlighted his real estate career, which began in 1987, and noted his involvement in a variety of real estate transactions. He currently deals almost exclusively with conservation transactions. He spoke of his extensive experience with easements and other conservation transactions, which began in 1996 through employment with both the Lakes Regional Conservation Trust and subsequently the Society for the Protection of New Hampshire Forests as a Land Protection Specialist. In that role, he completed dozens of conservation easement projects from inception to completion, and was directly involved with hundreds of other conservation projects. He also participated in the working groups who assisted in the development of the New Hampshire Everlasting project, which addressed landscape scale conservation planning for the State.

Mr. Howard spoke of sharing his experience and knowledge through multiple presentations of a continuing education course accredited by the Real Estate Commission on the topic of conservation easements with more than 100 real estate brokers attending at several locations throughout New Hampshire. He has conducted workshops on conservation real estate at the Savings Special Places Annual Conference and the New Hampshire Association of Conservation Commissions Annual meeting and workshops as well as presentations to private landowners, municipal officials, conservation volunteers, and real estate professionals at workshops hosted by non-profit conservation groups, the UNH Cooperative Extension, the Department of Environmental Services, the Belknap County Conservation District, and the Antioch New England Selectperson Institute.

Mr. Howard remarked one area of concern he is aware of after reviewing Commission meetings, is his familiarity with this locality. He noted, while he has not done business in Merrimack, he has worked on projects as close as Francestown, New Boston, and Weare. More importantly, he has accomplished conservation goals in more than 50 municipalities throughout New Hampshire. He stated he is well versed in land use regulations have served on the New Hampshire Association of Realtors Public Policy Committee since 1992 on its Environmental and Planning & Zoning Sub-committees, and is a four-year member of the Moultonborough Planning Board, including two years as Chair. He is presently facilitating a working group for the Planning Board for the revision of their land use chapter of the Master Plan. He noted conservation will be a top priority as the area is blessed with a great quantity of natural resources.

Market analysis is another of his strengths; he has completed a large number of opinions of value in conservation projects and for a variety of purposes. Many times, as a precursor to a full appraisal, he has had opportunity to compare his results with those of certified appraisers on conservation projects with great results.

Mr. Howard commented while not meaning to diminish the importance of local knowledge, the Commission is seeking a specialized service, which can only be offered by a very limited number of brokers. Local knowledge can be gained in the course of accomplishing the goals of the Commission in the same manner he has accomplished similar tasks in communities throughout New Hampshire.

Chairman Tenhave questioned the process. Mr. Howard provided a few examples of his work with municipalities one of which was with the Town of Gilford. Several years ago they undertook a fairly major project on Salt Marsh Pond, which is a trout pond that had a development proposal for more than 50 lots on a hillside, which would have all gone to the pond, which as a Fish & Game access point as well as a State forest abutting it. He worked with the Land Conservation Task Force to negotiate with the landowners, as a third-party negotiator. He assisted in the negotiation of the easement, and also assisted the appraiser who had done the initial appraisal to see some weaknesses in the appraisal, from his perspective, which helped the Town in reducing acquisition cost. The project failed in the SB2 Town by one vote (1 shy of 60% on the bond issue). Upon recount, it won by 6 votes.

Mr. Howard remarked he would foresee someone in Community Development would be a resource for him in gathering basic information; however, it appears much of the tax record is online.

Commissioner Boisvert questioned the payment structure. Mr. Howard responded he believes there would be the need to reach a basic agreement. He would work with the Commission, and there would be the need to get into

the scope before a discussion could occur with regard to the best alternative for the Town. He has done projects where compensation was contingent upon acquisition (commission) and other instances where it was based upon an hourly fee, travel time, expenses, etc. Chairman Tenhave commented, during the annual presentation to the Town Council, the Commission stated the goal for the year to be acquisition. There is a commitment to moving forward in accomplishing that goal.

Chairman Tenhave questioned whether the belief is the next step would be a more detailed discussion in non-public session. Mr. Howard stated agreement, and commented any discussion beyond what has taken place would be most appropriate in a non-public session. When asked how he would prefer to address fees, etc. up until the time when an agreement is reached, Mr. Howard responded, assuming the Commission/Town agrees to engage, he would provide a proposed contract to get started, which would be based on hourly rate, fees, etc., until the scope is understood and prioritization could be identified, not only of what the conservation values are, but also getting a handle on which parcels may be obtainable.

Commissioner Kras stated a desire to continue the discussion. Chairman Tenhave spoke of the need for the Commission to contract this work out, and to utilize the expertise and experience of an individual such as Mr. Howard.

When asked if he has had any experience working with organizations as opposed to individual land buyers, Mr. Howard stated he currently represents the Gilmanton Land Trust. They bought a package of agricultural lands from a single landowner. This is one of the projects for which he conducted the initial market analysis for their applications to the Federal Farm & Ranch Land Protection Program, which is where they received the bulk of the financing. The total valuation was in the \$1.8 million range. They in turn placed easements on the property, which the Five Rivers Conservation Trust out of Concord holds, further restricted it with the Town of Gilmanton Conservation Commission, and then gave them to him to market totally restricted except for agriculture. With building envelopes on two, for the two parcels he had to sell, there could be no residential use. One was sold within a matter of weeks and the other continues to be marketed a few months later.

He stated he has sold cash asset properties; land donated to conservation organizations as cash assets meaning they can resell them and use the proceeds for conservation. He has worked for the New England Forestry Foundation in that regard, the Society for the Protection of New Hampshire Forests, and the Lakes Regional Conservation Trust. He spoke of working with an outdoor club on the edge of the White Mountain National Forest, which is seeking to acquire a piece of land to help protect their trail system.

When asked if he has participated in grant writing, Mr. Howard stated he is very familiar with it, and has participated from the standpoint of providing service to those who were developing the grants. He does not do grant writing himself. He chooses not to as it takes his focus away from his true strength; real estate. When asked if he is familiar with grant opportunities, Mr. Howard responded absolutely. He spoke of dealings where funding from sources such as the Aquatic Resource Mitigation (ARM) Fund and the New Hampshire Land and Community Heritage Investment Program (LCHIP) was acquired.

Chairman Tenhave questioned the will of the Commission. The question was raised of whether a non-public session could be conducted at the end of the meeting. Chairman Tenhave stated that could not occur without having been noticed. Mr. Howard was thanked for his attendance and presentation. It was noted the Commission would contact him once a decision was reached.

Cindy Glenn

Spoke of being made aware of a discussion around beavers intended to take place in September, and be conducted by the Commission. As a landowner with wetlands in her backyard, she has a concern, and is curious about a beaver policy. She decided to attend a meeting of the Commission to become more familiar. Chairman Tenhave informed her of the variety of ways in which citizens can view past and current meetings of the Commission at their convenience.

Commissioner Lehman questioned how the Commission would proceed. Chairman Tenhave noted a general discussion could occur; however, if the desire were to discuss specifics around where a consultant could be utilized, a special meeting would have to be called or a special agenda item included on a future agenda. Vice Chairman Caron stated his opinion a non-public session is needed to allow the Commission the opportunity to conduct the necessary discussion to reach a decision.

Commissioner Lehman stated his belief the Commission already has a general idea of properties of interest. He believed the Commission had enough information on hand to decide upon the acquisition of Mr. Howard's services. Chairman Tenhave noted there may be some properties of interest where the Commission is of the belief such services would not be required. Commissioner Kras commented on the importance of the scope of work Mr. Howard or another would be utilized to be very specific, particularly as a way to keep costs under control. Commissioner Lehman noted Mr. Howard had mentioned, if the Commission were to utilize his services, a discussion would have to occur around scope or work, and an agreement reached.

Commissioner Kras suggested the Commission reach a clear understanding on what aspects of acquisition Mr. Howard or another would be asked to take on. She spoke of some of the aspects of research that could be easily handled by the Commission itself. Chairman Tenhave stated he could include a non-public session on the agenda for the Commission's next meeting.

NEW BUSINESS

1. Use of Funds for Additional Police Patrols/Activities on Conservation Property

Commission to discuss utilizing Conservation funds for Police ATV patrols and related activities on Conservation Properties.

Chairman Tenhave spoke of signage that has disappeared, concerns raised about gunfire outside of Grater Woods, and calls into the Police Department. Chief Doyle has questioned whether the Commission has interest in expending conservation funds to help bolster what the Police can do, e.g., there are no funds available to allow for additional patrols of Grater Woods and other conservation parcels.

Commissioner Boisvert questioned how the Commission would be guaranteed funds put into this effort would be expended on patrolling conservation lands. Commissioner Kras remarked funds provided by the Commission should not be utilized in responding to a call to the property by a citizen. It should be expended on patrols above and beyond what would be in the normal realm of police work. Commissioner Lehman suggested the Commission identify specific issues to be addressed.

Chairman Tenhave remarked the item was placed on the agenda to determine if there was interest on the part of the Commission in pursuing such efforts. He suggested requesting Chief Doyle provide his thoughts on the logistics of such an effort. Commissioner Kras questioned other means of funding additional patrols when needed. The concern of precedent setting was raised. Vice Chairman Caron questioned whether a member of the Commission would need to accompany patrols.

The consensus of the Commission was to make Chief Doyle aware of the discussion and await a response.

2. Use of Funds for New Signs at Wildcat Falls Conservation Area

Commission to discuss utilizing Conservation funds to replace damaged, vandalized, and old signs at Wildcat Falls Conservation Area.

Chairman Tenhave stated there to be three types of signs that are either aged to the point where they are faded and no longer useful or have been vandalized over time and never updated. Adam Jacobs, Operations Manager, Public Works Department, went through the vaults looking for other versions of the signage without success. Signs stating "No vehicles beyond this point" are located at the gate by the parking lot. There is also a "No Hunting" sign as no hunting is permitted by ordinance, Chapter 111. There is a sign near the falls that speaks to dangerous water conditions/swim at your own risk, which is completely covered with writing, and has been for some time. The Sub-committee is hopeful the Commission would be willing to acquire new signage.

Vice Chairman Caron stated he may have signage of this type. He was provided signage by prior members of the Commission. He offered to look through the inventory and see if this type of signage is available. He spoke of plans to meet with the Sub-committee the following day. If he is able to locate the required signage, he will provide it to them at that time. He will notify the Commission of the outcome.

3. Annual Meeting – Election of Chairperson and Vice-Chairperson

Commission will hold its annual meeting in accordance with its By-Laws Article II.E. During the annual meeting, the Commission will take up any proposed changes to its By-Laws and will hold an election for the offices of Chairperson and Vice-Chairperson. Commissioners are encouraged to bring any proposed changes to the By-Laws to this meeting for action by the Commission.

Bylaws

Chairman Tenhave questioned whether there were any proposed amendments to the Bylaws.

No recommendations were made.

Elections

Chairman Tenhave called for nominations for Chairman of the Merrimack Conservation Commission for the 2014-2015 term.

COMMISSIONER BOISVERT NOMINATED COMMISSIONER TENHAVE

Commissioner Lehman stated agreement with the nomination. Vice Chairman Caron spoke of the opportunity to show appreciation for the job Commissioner Tenhave has done as Chairman.

Commissioner Tenhave responded he would do his best, and noted he begins a new position with his employer in two weeks' time, which could impact his availability.

VOTE ON ELECTION OF TIM TENHAVE TO THE POSITION OF CHAIRMAN OF THE MERRIMACK CONSERVATION COMMISSION FOR THE 2014-2015 TERM MOTION CARRIED

4-0-1

Commissioner Tenhave Abstained

Chairman Tenhave called for nominations for Vice-Chairman of the Merrimack Conservation Commission for the 2014-2015 term.

COMMISSIONER KRAS NOMINATED COMMISSIONER CARON

When asked, Commissioner Caron stated his willingness to accept the nomination.

VOTE ON ELECTION OF MATT CARON TO THE POSITION OF VICE CHAIRMAN OF THE MERRIMACK CONSERVATION COMMISSION FOR THE 2014-2015 TERM MOTION CARRIED

4-0-1

Commissioner Caron Abstained

Chairman Tenhave noted July is the timeframe during which the Commission is intended to take nominations for sub-committee members. He stated his belief there are no terms expiring for members of the Horse Hill Nature Preserve Sub-committee; however, he is aware of member terms on the Grater Woods Sub-committee and Wildcat Falls Sub-committee coming to a close. He questioned how the Commission wished to proceed.

Vice Chairman Caron suggested requesting Sue Holstein, Secretary, Community Development, reach out to members of the sub-committees to ascertain whether or not existing members desire re-appointment. Chairman Tenhave spoke of the workload in the department, and questioned whether the Chairpersons of the sub-committees could be tasked with questioning interest of existing membership. He offered to provide a copy of the list of terms to the Chairmen to identify those that are expiring. Chairman Tenhave stated a desire to take up the appointments in August.

It was noted members of the public interested in participating on the sub-committees are invited to make that interest known through an e-mail to TTenhave@MerrimackNH.Gov, through the e-mail link, MerrimackNH.Gov,

which can be accessed through the website www.MerrimackOutdoors.org, or by contacting Sue Holstein in the Community Development Office.

OTHER BUSINESS

- Gateway Trail Stabilization Project – Update

Commissioner Lehman noted the walk through scheduled for Thursday, July 24, 2014 at 9:00 a.m. Chairman Tenhave remarked the prior meeting minutes noted the desire for notes to be taken of information communicated during the walk-through. He requested one of the Commissioners attending take on the responsibility of capturing those notes. When asked, Commissioner Lehman stated he has not spoken with Mr. Powers about the specifics of the walk-through, e.g., questions he should pose, etc. Chairman Tenhave spoke of the discussion that took place at the July meeting around how the walk-through would be conducted. Commissioner Lehman stated he would reach out to Mr. Powers.

Commissioner Lehman questioned whether the Commission wished to push back the date of the first meeting in August given the bids for the project are expected on July 31st and the meeting is currently scheduled for August 4th, which may not leave sufficient time for Mr. Powers to be able to review the bids and provide feedback. Chairman Tenhave commented he would have to check to see if there are any projects in the pipeline, and noted the ability to conduct a special meeting if necessary. He stated his preference to address the issue on August 4th, and informed the Commission Matthew Shevenell, Business Administrator, Merrimack School District, has indicated his availability to attend.

With school district representation, a decision could be reached at that time. Commissioner Lehman suggested the Commission go forward with its August 4th meeting date, and see how things work out. Chairman Tenhave suggested Commissioner Lehman pass along his concerns to Mr. Powers during the walk-through.

Chairman Tenhave stated Commissioner Perry provided him an e-mail noting the trail leading in from Beebe Lane is getting a lot of use. It has some issues, e.g., steepness, etc. He questioned whether the Sub-committee has plans to perform any work on that entrance. Vice Chairman Caron responded they do not. When asked if the Commission should be considering what can take place in the area, Vice Chairman Caron noted other entrances that are in far worse condition.

- Beaver Management Study – Update

Chairman Tenhave stated the contractor, GZA, is just getting started and reviewing parcels of interest to the Commission.

- Happenings at the Horse Hill Nature Preserve

Chairman Tenhave spoke of a recent incident with an individual in the area wearing a mask and brandishing a weapon. The police have been actively trying to locate the individual. Vice Chairman Caron stated the area has also been subject to automobile break-ins. Anyone witnessing such activity should contact Police dispatch at 424-3774, Merrimack Crime Line at 424-2424, or 911.

- Trail Work Day at Wildcat Falls Conservation Area; July 22, 2014 @ 5:30 p.m.

Chairman Tenhave remarked to get to the meeting location one would turn down Currier Road onto Souhegan, and take the last left.

- SoRLAC Invasives Meeting

Chairman Tenhave stated the July 17, 2014 regular meeting of the Souhegan River Local Advisory Committee was cancelled. In its place, the committee will sponsor a workshop on invasives. The meeting is scheduled for Thursday, July 24, 2014 in the Keyes Room in the Milford Library from 6:30 - 8:30 p.m.

- Sub-Committee Membership. Terms that expire and process to re-appoint or appoint new members. (Re)Appointment to occur at 8-4-2014 meeting

Commissioner Kras stated she has an idea for an outline of what the Commission would like to see for a forest management plan. The outline identifies the areas she believes to be of interest, highlights specific maps to be

included, addresses recreation and recreation potential, etc. She requested Commissioners review the materials for a future discussion. Chairman Tenhave noted receipt of an e-mail from Mr. Powers relative to a Celebration of Life for Dan Cyr. He will forward the information along to members of the Commission.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. June 16, 2014

MOTION BY COMMISSIONER TENHAVE TO ACCEPT AS PRESENTED
MOTION SECONDED BY COMMISSIONER LEHMAN
MOTION CARRIED

4-0-1

Commissioner Kras Abstained

Special Merrimack Conservation Commission. July 1, 2014

The following amendments were offered:

Page 1, Line 24; delete "Mike Powers, Bay State Forestry Service"
Page 1, Line 60; replace "Mr. Powers" with "Commissioner Boisvert"

MOTION BY COMMISSIONER TENHAVE TO ACCEPT AS AMENDED
MOTION SECONDED BY COMMISSIONER CARON
MOTION CARRIED

4-0-1

Commissioner Kras Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS - None

ADJOURNMENT

MOTION BY COMMISSIONER LEHMAN TO ADJOURN
MOTION SECONDED BY COMMISSIONER BOISVERT
MOTION CARRIED

5-0-0

The July 21, 2014 meeting of the Merrimack Conservation Commission was adjourned at 8:04 p.m.

Submitted by Dawn MacMillan