

MERRIMACK CONSERVATION COMMISSION

JANUARY 7, 2013

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, January 7, 2013 at 6:35 p.m. at the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Thomas Lehman
Gage Perry
Simon Thomson
Ron Davies, Alternate Member

Members of the Commission Absent: Robert Croatti, Alternate Member
Eber Currier, Alternate
Councilor Thomas Mahon

Also in Attendance:

Chairman Tenhave appointed Alternate member Davies as a voting member.

PUBLIC COMMENT

Roger Blais, 4 Peaslee Road, President, Right Riders ATV Club

Stated his desire to understand when the Club might be able to begin work on the conceptual plan for trails in Grater Woods (submitted in June). The desire is to begin the work of marking trails and identifying whether additional work needs to be done such as water crossings, etc. in the spring.

He commented the Club was started in 2005 for the purpose of working with the municipality, Commission, etc. in the establishment of safe and legal riding areas for the residents of Merrimack.

Commissioner Perry noted the Commission was informed work cannot begin until the Stewardship Plan is approved by the Town Council. Mr. Blais questioned whether the Club has the support of the Commission with regard to the work it would like to perform. Chairman Tenhave stated the discussion intended to take place during the meeting was related to future projects, which would include future trails.

Chairman Tenhave remarked, once the Commission has completed its discussion on the section of the Plan related to future projects, a review of the draft plan in its entirety would be conducted, after which the draft plan would be presented to the Council. He noted the Council is in the midst of budget discussions this month, and the desire is for the Plan to be before the Council in the February/March timeframe. He noted a decision has been made to move forward with mitigation work on the Red Maple Trail and Conservation Drive access, and commented he would not anticipate new trail construction until the fall.

Chairman Tenhave remarked once the process of Town Council approval has completed, certain infrastructure has to be put in place, part of which is an appropriate access point especially for trail bike use. At present, the only access is up South Grater Road. If the intent is to use the Conservation Drive access point, that will not be completed until the fall timeframe. The time between Council approval and the availability of appropriate access could be utilized for planning, etc. as efforts have to be taken to ensure the appropriate infrastructure is in place to support trail bike use. He clarified opinions expressed regarding the need for appropriate infrastructure to be in place in advance of any trail work are his personal opinions.

He stated his hope, once approval is achieved, all interested parties will come together as a Grater Woods Sub-committee, which would concentrate on implementing the Plan and addressing the infrastructure needs. Mr. Blais commented the Club would not want to see a requirement for a sub-committee to approve the trails

that have been proposed as that would delay the process. Chairman Tenhave responded there would be some representative group that would determine whether or not a particular trail is appropriate. He noted the Plan states the need to address certain issues before new uses are allowed.

Commissioner Perry commented if the Commission were to provide final approval of the trails and then pass the work down to a sub-committee, he does not believe there would be another approval process necessary. Chairman Tenhave remarked what the Commission has received from the Club are D trails that are depicted on the map in yellow (desired location); however, getting out on the ground and mapping/flagging the area will result in some deviation. Once the new trail layout has been put in place he would think a group of knowledgeable individuals utilizing Best Management Practices, etc. would want to review the locations of the proposed trails to ensure all are in agreement. Mr. Blais questioned what could occur in advance of approval by the Town Council, and was informed no physical boundaries could be established, flags placed, etc. Chairman Tenhave stated the Club could gather GPS coordinates, take photos, etc.; however, cautioned Mr. Blais not to allow markings to be put in place. He reiterated nothing can occur without first gaining the approval of Town Council and again stated his opinion it is necessary for infrastructure to be put in place to support new trails.

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS - None

OLD BUSINESS

1. Grater Woods Stewardship Plan Review

Complete review of future projects to be included in the plan and review the current draft.

Chairman Tenhave spoke of the Grater Homestead Stewardship Plan (Homestead Plan) prepared by Brian Johnsen of Bay State Forestry, in January of 2012 (copy attached), for the parcel where trails D1 and D2 are depicted. He suggested the Commission review the plan during the discussion as it addresses conditions on the site.

Proposed Trail D1

Commissioner Lehman noted the map (attached) provides a general depiction of the desired trail locations. The desire is to achieve conceptual approval this type of trail (Category D) in the identified areas. He stated there would be instances where permits would be required from the New Hampshire Department of Environmental Services (NHDES) due to areas of wetland impact, etc. He referred to Stands 1 and 2 depicted on the Homestead Plan for the purpose of location identification for the proposed D1 trail.

He noted the existence of a few wet streams in the area of Stand 1, which would likely require a permit as well as suitable crossing (infrastructure). He commented there may be better ways to lay out the trail, which will not be known until the Club begins the process of plotting out the trail(s). Commissioner Perry suggested, on paper, it appears as though the return side of D1, if going back up to the road on the right side, could just cut over and become one route, which would likely avoid the entire section of wet. Commissioner Lehman remarked the actual trail will differ from what is currently depicted; however, the desire is to achieve conceptual approval for utilizing Category D trails in these locations subject to any required NHDES approval for minor wetland impacts.

He noted there is a nice view looking out to the west (identified on the bottom left-hand corner of the map), and the desire would be to bring the trail to that location. When asked about soil conditions, Chairman Tenhave noted the Homestead Plan includes descriptions (by stand). The description of Stand 1 states: "Soils are well-drained at the tops of the knolls in the western half of this stand, somewhat poorly-drained along the streams in the eastern half of the stand, and overall are moderately well-drained, with very little surface rock except near streambeds".

Commissioner Lehman remarked the USDA website specifies types of use and specifically has a use speaking to motorized trail bike, which will analyze compared to soils in the area. Although not rated the best soil, hardly anything is. However, trails can be placed in there acceptably with some management such as the layout of the trails, e.g., wetland crossings, etc. He noted the soil types in all of the areas are permissible for that type of use.

Chairman Tenhave noted there is a residence in the area and stated the desire to avoid motorized use too close to residences. His preference would be to eliminate the portion of the proposed trail that travels from South Grater Road to the area behind the residence. He also noted if the trail were to cut over and become one route, as suggested as a means to avoid areas of wet, there would be traffic coming in and going back out (twice the traffic in the area of the residence). He stated his preference D2 include a spur that would encompass the loop where the soils work well, keep the trail away from the marshy area around the streambeds, and provide some of the views desired. Commissioner Lehman noted the point at the bottom is very steep and overgrown.

Vice Chairman Caron noted the area where the view was noted has a great deal of posted no trespassing signs put up by the Amherst Conservation Commission as the result of trouble they experienced with motorized use in the area. They would like to see motorized use eliminated from the area. Commissioner Davies questioned, since not connected, how users would go from D1 to D2, D3, and D4. Commissioner Lehman responded along the green line (South Grater Road). Commissioner Perry remarked, having only had the opportunity to review the proposed trail on paper and given all of the issues raised, at this point, he does not believe D1 to be a viable trail. Speaking to the buffer, Commissioner Lehman remarked it is a Class 6 road which runs near the residence. There is no restricting of vehicles until the gated portion at the Merrimack line. He stated an adequate buffer zone would be considered from the entrance to the D1 trail going up into the area of the loop. He suggested it could be laid out, and once walked; a final decision could be made as to whether or not the area is suitable for such a trail.

Commissioner Perry remarked the section of the Plan being discussed is that of future trails, which can be amended (added to) at any time. He restated his opinion if a proposed trail is already contentious he would rather focus on the other three proposed trails and leave discussion of the D1 trail for a future date.

Chairman Tenhave questioned the will of the Commission. Commissioner Lehman stated all that is looked for, at this time, is approval of the concept. Commissioner Perry stated, at this time, he would be against it for the reasons stated, e.g., wetlands, proximity to residence, etc. Commissioner Lehman questioned whether an acceptable buffer zone has been identified, and was informed it has not. Commissioner Perry restated his desire not to include the D1 trail on the map, to leave it under future trails, and visit the site a year or two from now to determine whether it could be a viable trail.

Chairman Tenhave noted the trail is close to the Amherst Town line. Commissioner Lehman restated the layout of the trail on the map will be adjusted and that being requested is approval of the concept of putting that type of trail in the area. Once the Plan is approved by Town Council the Club would go on site and try to determine the best route. At that point, the Commission will assess it and all other trails.

Commissioner Thomson questioned why the trail could not be identified as a possible future trail. Vice Chairman Caron stated his belief the charge of the Commission is to make a recommendation to the Town Council, and that he would not be in favor of including D1 on the list of future trails being proposed given its proximity to the Amherst town line, the residence, existence of wetlands, etc. He stressed the Commission has not been to the site.

Commissioner Lehman commented a personal opinion shown by a recorded vote at the sub-committee level when discussing trails for motorized use was that of Vice Chairman Caron who was the one descending vote. Chairman Tenhave questioned how that reference assisted the current discussion. Commissioner Lehman remarked Vice Chairman Caron has pointed out the Town of Amherst does not desire motorized use in the area, the existence of wetlands, etc., and suggested there would also be arguments brought up by individuals having strong feelings against motorized use on these types of properties. He requested the Commission approve the concept after which the site could be walked, NHDES would become involved and would be the entity to determine whether or not this area is suitable for a trail with this type of use.

Commissioner Davies remarked he is acceptable to identifying D1 as a possible future trail, and once walked by the Commission and NHDES, if it is determined plausible, it could be done, and if not it would not be done. He does not see any harm in including it as a possible future trail.

Chairman Tenhave stated his opinion, at this point in the process, if the trail is depicted on the map there will be an expectation a trail will go there and that the Commission believes it probable it would be an appropriate location for such a trail/use. He believes a better way to address the issue would be to leave the proposed D1 trail out of the Plan, at the moment, and include a statement indicating there are other places on the property where trails could be considered, whether it be the location of the proposed D1 trail or other areas, in the future. Chairman Perry noted, if the situation changes, e.g., an additional entrance is identified, etc., the trail could be added. Commissioner Lehman remarked the only reason he would not support putting this proposed trail off is that he sees it as a placeholder, and if not identified as a potential trail for motorized use, another use could be proposed and accepted, which would make it difficult to achieve a motorized trail in the future.

Commissioner Thomson questioned whether there are believed to be issues associated with motorized use for the remaining proposed trails; D2, D3, and D4. Chairman Tenhave stated his belief the commission would likely get through the discussion on the proposed trails for D2 and D3 rather easily; however, D4 would generate some discussion.

Commissioner Davies questioned if what was being suggested was not to include the proposed D1 trail on the list at this time, but to, at a later point, visit the site and make a determination as to the viability for such a trail/use. Chairman Tenhave stated that would be his recommended course of action. Commissioner Perry remarked a request could come at any time to add a trail, which would require the Commission to conduct a site walk and determine the viability of a trail/proposed use. He restated the D1 trail could be listed under future trails, and once the Plan gains approval, a site walk could be conducted to determine if the trail would be viable for the proposed use. Commissioner Lehman question what would occur if a request were made for a Category C trail in that location. Chairman Tenhave remarked, knowing the situation, he would hope the Commission, at the time, would recognize a previous discussion had occurred and the need exists to evaluate the property.

Vote on the inclusion of the proposed D1 Trail under the title of "Current and Future Projects & Trails" within the Grater Woods Stewardship Plan

MOTION FAILED

1/5/0

Commissioners Caron, Perry, Thomson, Davies, and Tenhave voted in opposition.

Proposed Trail D2

Chairman Tenhave questioned whether the loop was intended to avoid the area of wet, and was informed the trail normally loops around and runs back on itself. It was noted there is a spot that requires a crossing/bridge. When asked if there were any areas of concern to note, Commissioner Lehman stated there were not.

Chairman Tenhave noted the area encompasses the area of Stand 6 and some of Stand 7 as depicted on page 22 of the Homestead Plan. Commissioner Perry questioned whether the section where D2 is listed on the future trails map (attached) was the only section of access at the time, and was informed that is the case.

Chairman Tenhave remarked, with the exception of Stand 7 the Homestead Plan speaks only to the need for forestry to occur at some point.

Vic Chairman Caron suggested Stand 6 to be the first priority for foresting, which Chairman Tenhave remarked could provide the infrastructure for the wetland crossing. Vice Chairman Caron noted, Stand 7 is located between a large wetland on the southerly boundary line and the easternmost beaver pond; therefore, is under water. Chairman Tenhave suggested the area would have to be closed during mud season.

Commissioner Tenhave was in favor of the idea of tying in the construction of a crossing/bridge with a forestry project; however, did not wish to see construction of the trail delayed based on timing of a forestry project. Vice Chairman Caron suggested if the bridge were to be constructed in advance of a forestry project it should be constructed to withstand the weight of trucks that would be used for a forestry project. He noted there may be an opportunity to have the bridge constructed as an Eagle Scout project, etc. Commissioner Tenhave suggested a smaller bridge would discourage traffic larger than walking, bicycles, and trail bikes (Category D), unless the desire is to change the trail to a Category A.

It was the unanimous decision of the Commission to include the proposed D2 Trail under the title of "Current and Future Projects & Trails" within the Grater Woods Stewardship Plan.

Proposed Trail D3

Commissioner Lehman remarked there are a few bypasses in the area of Trail D3. The trail continues into the Conservancy foundation property. Commissioner Perry stated he would prefer not to show all of the trails on the future trails map. Commissioner Lehman noted the D3 Trail comes out onto South Grater Road. When asked, he stated the start of the trail drops off into a puddle on South Grater Road and would have to be changed. Vice Chairman Caron suggested there may be a way to drain the area. Vice Chairman Caron stated his full support of the trail being done correctly and sloped properly to avoid future issues. He suggested the infrastructure be addressed prior to the construction of the trail.

It was the unanimous decision of the Commission to include the proposed D3 Trail under the title of "Current and Future Projects & Trails" within the Grater Woods Stewardship Plan.

Proposed Trail D4

Chairman Tenhave noted the draft Stewardship Plan speaks to Stand H (page 21), and includes a recommendation the stand remain mainly undisturbed by forestry or recreation. He suggested, should Trail D4 move forward, a modification should be made to this section of the Stewardship Plan for the sake of consistency.

The issue of the area being a deer yard was raised. Commissioner Lehman noted he brought the County Forester in who opined avoiding the area of the deer yard would only be an issue during the winter months. The Commission discussed the possibility of closing the trail at some point during the year (perhaps after hunting season).

Vice Chairman Caron recommended a caveat that prior to any trail construction, the existing D4 section, which traverses the wetlands, be closed. Commissioner Lehman requested a representative from NHDES be brought in to perform an analysis before requiring the condition and/or making a determination to close that section of trail, e.g. determine whether that specific area (through rocks) is in fact a wetland.

Vice Chairman Caron remarked the Town Council is aware the current trail goes through a wetland. The Stewardship Plan presented to them should identify a proposed trail as one that avoids the wetlands. Commissioner Lehman reiterated his desire for a representative from NHDES to determine whether the area just past the rocks is in fact a wetland area. Chairman Tenhave noted if a wetland scientist has determined the area to be a wetland it is in fact a wetland; an opinion from a representative of NHDES is not required to make

such a determination. Chairman Tenhave suggested the Commission consider hiring the services of a wetland scientist and/or soliciting the services of NHDES to review all proposed trails prior to any implementation.

Chairman Tenhave suggested, if the will of the Commission is to include Trail D4, the Stewardship Plan should be amended on page 26, under "Stand H", "Forestry Plan" by deleting the words "or recreation" from the sentence that reads: "The stand should remain mainly undisturbed by forestry or recreation." Commissioner Perry questioned whether the amendment should be made prior to an assessment being performed by either a wetland scientist or representative of NHDES.

Vice Chairman Caron suggested the word "mainly" be replaced with the word "seasonally".

Commissioner Davies stated a desire for the Commission to be consistent in its decisions of whether or not to include potential trails on which issues are already known, e.g., if excluding the proposed D1 trail should also exclude the proposed D4 trail. Commissioner Perry stated he was acceptable to proposing the trail be utilized seasonally. Vice Chairman Caron stated his agreement, and noted additional research needs to be conducted. It was also noted the proposed Trail D1 has many more areas of question/concern.

It was the general consensus of the Commission to include the proposed D4 Trail under the title of "Current and Future Projects & Trails" within the Grater Woods Stewardship Plan and that the Plan be amended on page 26, under "Stand H", "Forestry Plan" by adding the word "seasonal" between the words "or" and "recreation" in the sentence that reads "The stand should remain mainly undisturbed by forestry or recreation."

A discussion ensued as to why the section, which reads: "NOTE: This area should have very limited recreational activity and must be "off limits" to all activity in the winter months. Trails should not traverse the steep slope and be limited in the lower area of this stand. No motorized vehicle activity should be permitted in this area at any time." was moved to the "Observation section" rather than simply being deleted.

Trail Descriptions

Referring to the descriptions provided for the Category D1, D2, D3, D4, and A1 Trails, Chairman Tenhave questioned what was meant by "more technical bypass" for Trail D3, and was informed the trail is not straight/flat, but rather windy/rocky.

When asked why the 2009 Grater Woods Plan, developed by the sub-committee, was utilized to describe the area of Trail A1, Commissioner Lehman responded, at the time, it was a multi-use trail (not called Category A). Chairman Tenhave asked for clarification it had been previously intended to have a multi-use trail in the area, and was informed that was the case.

It was the consensus of the Commission that Paragraph E is amended by deleting the first sentence and the entire paragraph is reworded to better describe the trail layout."

Commissioner Lehman was asked to provide revised wording within a week's time and forward it along to all Commission members for incorporation into the draft.

Chairman Tenhave requested Vice Chairman Caron provide the Commission with advance information on issues he wishes to discuss related to future trails at the next meeting.

Outdoor Education Center

Chairman Tenhave questioned the will of the Commission with regard to the amount of information that should be included under future projects related to the Outdoor Education Center. Commissioner Perry suggested, since the center is currently being used and is functional, it could be addressed at a future date. He was asked

to review the main body of the Plan and eliminate reference to a “plan” for the Outdoor Education Center, as there is no “plan”.

Vice Chairman Caron spoke of the following discussion that took place at the December 3rd meeting:

“Vice Chairman Caron suggested Old Blood Road be addressed under “Future Trails”, e.g., a trail coming off of Marty Drive and Bambi Trail connecting into the school. The consensus of the Commission was to remove the section on Old Blood Road and reference to it, and that it is addressed under discussion of future trails.”

Commissioner Perry noted the inclusion of an “Appendix E – Proposed Projects and Trails includes the following:” which was created and amended (added to) each time a decision came about regarding placement of a particular trail under the future category. Speaking to pedestrians utilizing the area to gain access to the school, Vice Chairman Caron noted different walking paths are being utilized and suggested if one walking path and one crossing were clearly identified it would best serve the users, e.g., fix crossings and provide bridges for crossing. He noted the volume of pedestrians walking through the area and disturbing the pools is creating problems. He suggested, before new trail construction begins, work be done on existing trails.

Commissioner Perry was asked to provide a graphic depiction of how the section of Blood Road would be addressed under future trails.

Chairman Tenhave requested an updated draft be provided to members of the Commission within the next week to provide an opportunity for review in advance of the next meeting. Commissioner Perry stated he would contact the Chairman if he were unable to complete the changes within the recommended timeframe.

NEW BUSINESS - None

OTHER BUSINESS

Chairman Tenhave noted both the January 21, 2013 and February 18, 2013 meeting dates fall on holidays, and the Commission’s Bylaws state the Commission will not meet on holidays. He questioned the will of the Commission with regard to adjusting the meeting dates.

The consensus of the Commission was to re-schedule the Monday, January 21, 2013 meeting to either Tuesday, January 22, 2013 or Wednesday, January 23, 2013 and to cancel the meeting scheduled for Monday, February 18, 2013 and only schedule a second meeting for the month of February if deemed necessary.

Chairman Tenhave informed the Commission of three volunteers who have expressed interest in participating in a sub-committee for Wildcat Falls, and questioned the will of the Commission with regard to interviewing the interested parties. It was determined the individuals would be invited to attend the February 4th meeting.

Chairman Tenhave informed the Commission he has identified GPS coordinates for all of the trails on Wildcat Falls. He noted most of the trails on the State property as well as Wildcat Falls have been marked with yellow dots and blue tape. Also a few trail spots have been added that likely should not be used as trails. Beyond that, on the State property, someone has marked two new trails with orange spray paint, and individuals are now using those trails. He stated his intent to input the GPS coordinates into a map to be distributed to the Commission.

Chairman Tenhave noted a great deal of snowmobile activity is occurring at Wildcat Falls and on the State owned property. He commented he had believed the activity was prohibited; however, Chapter 111 of the Town Ordinance states there will be no off-highway recreational vehicles as described in RSA 251-A:1 (VI) which excludes most OHRVs; however, does not include snowmobiles. He requested those utilizing snowmobiles be cautious of remaining on trails and be mindful of wet areas and private property.

Chairman Tenhave spoke of the upcoming winter Carnival taking place at Wasserman Park during the month of February. A discussion item will be placed on the next agenda to determine whether or not the Commission wishes to participate in some manner.

Chairman Tenhave spoke of the annual review of the Wasserman Conservation Area, which was not performed in 2012. He asked that anyone interested in walking the site with him and gathering information to be provided to the State make him aware of that interest. He noted there is interest in what is occurring with the dam as previous concerns were reported. Along with an update on that area, the Commission should also include information on the recent parcel purchase.

Chairman Tenhave stated there is now a four-drawer file cabinet in the Community Development area consisting of documents that could likely be purged. He requested Commissioners to an opportunity to review the information so that a consensus can be reached with regard to the disposition of the material.

Chairman Tenhave informed the Commission he would be before the Town Council on Thursday providing the Annual Review of the Conservation Commission. He stated he would update the Council on the Commission's progress with the Grater Woods Stewardship Plan and would solicit assistance with regard to amendments that should be made to Chapter 111 of the Town Ordinance, relating to the Commission.

Commissioner Lehman spoke of a previous discussion around the desire of the Amherst Conservation Commission to gain ownership of parcels owned by the Grater family, one of which includes a strip of land that exists within the Town of Merrimack. The Amherst Conservation Commission had questioned whether the Merrimack Conservation Commission would be interested in taking possession of that one piece if Amherst were to negotiate the entire transfer. It was stated no further action occurred with regard to that, and Vice Chairman Caron was requested to make contact and ascertain the current status.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. December 17, 2012

The following amendments were offered:

Page 5, Line 4; delete the words "of times"

Page 5, Line 21; sentence should read: "Chairman Tenhave informed the Commission the purchase of Parcel 5D-4/100 was approved by the Town Council and has been recorded in the Hillsborough County Registry of Deeds."

Page 6, Line 17; replace the word "Tenasian" with the word "Tomasian"

Page 13, Line 6; change the word "of" to the word "or"

MOTION BY COMMISSIONER LEHMAN TO APPROVE AS AMENDED
MOTION SECONDED BY COMMISSIONER PERRY
MOTION CARRIED

5/0/1

Commissioner Thomson Abstained

PUBLIC COMMENT – None

COMMISSIONER COMMENTS

Commissioner Lehman questioned whether the invoice from Bay State has been submitted for payment, and was informed it has. It was explained the invoice was related to the independent review conducted after the initial discussion.

ADJOURNMENT

MOTION BY COMMISSIONER CARON TO ADJOURN
MOTION SECONDED BY COMMISSIONER PERRY
MOTION CARRIED
6/0/0

The January 7, 2013 meeting of the Merrimack Conservation Commission was adjourned at 9:19 p.m.

Submitted by Dawn MacMillan