

MERRIMACK CONSERVATION COMMISSION

JANUARY 22, 2013

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Tuesday, January 22, 2013 at 6:32 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
Eber Currier, Alternate

Members of the Commission Absent: Robert Croatti, Alternate Member
Ron Davies, Alternate Member
Councilor Thomas Mahon

Also in Attendance: Greg Michael, Esq., Bernstein Shur

Chairman Tenhave appointed Alternate member Currier as a voting member.

PUBLIC COMMENT - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

1. Monogram Building & Development, LLC.

Commission to review Sewer Plan and wetland impact for 3-lot subdivision at 59 Pearson Road.

Attorney Michael stated the 3-lot subdivision was before the Commission and subsequently approved by the Planning Board last year. At that time, no wetland impacts were identified. The lots will be serviced by town water and sewer. The original plan identified the sewer traveling from one lot, involving blasting and a cut, traveling down to Pearson Road and cutting through the roadway to make it down to the transfer station for gravity feed into the transfer pump that sits near the Bedford/Merrimack line. Part of the reasoning for the original plan was to avoid wetlands.

After further review, it appears more sensible to avoid the road. At this time, there is water in the road as well as a pressure sewer line. Cutting the roadway would be a fairly significant expense particularly given there are no other areas to be serviced by sewer from this particular project. The modified plan would pick the sewer up in a different location and bring it across the back of the property down. There is a wetland area, and the intent is to bore under it to avoid any impact.

Attorney Michael noted there may be a requirement to appear before the Zoning Board to seek a special exception. He also noted part of the Merrimack ordinance requires a statement from a Certified Soil Scientist regarding any wetland impact. A letter has been provided from Gove Environmental Services, Inc., which states the proposed approach would result in no wetland impact. He commented the property was a hayfield for almost 50 years and the wet areas identified on the plan are wet in vegetation name only (no water present).

The plan allows for boring underneath without wetland impact; however, the applicant was requested to appear before the Commission. He noted there is no requirement for the plan to be presented to the Planning Board. The change is more of a field change before the Planning Department; however does require Zoning Board approval because of the potential to touch the wetlands (not anticipated).

Commissioner Currier asked for clarification the area is presently more of a forested wetland, and was informed it is growing scrub. Commissioner Currier remarked it is about 15' high and not going higher except where the buildings are going in. Attorney Michael stated it may go higher, and commented he used to mow the area, which has not had a lot of years to grow. He reiterated for years and years it was a hayfield. What is seen now is an accrual of scrub growth as a result of haying activity ceasing. Commissioner Currier remarked there is a forest in the back. Attorney Michael stated there is a tree line that has grown over the years as it has been left untouched. The tree line is part of a no-disturb area.

Commissioner Currier questioned whether the sewer would be pumped up on lot three. Attorney Michael responded that is unknown at this time, and will be dependent upon the final elevation of that particular house lot. If pumped, it would be a small private pump (not part of municipal system). Commissioner Currier remarked this is one of the first times he has seen a pipe placed under wetlands in order to avoid impact. He commented the Agricultural Commission at Wasserman Park dug under the road to avoid impact to the tar on top of the road, but this is the first time he has seen such an effort to avoid impact to wetlands. He questioned whether the project has been approved by the Wetlands Bureau, and was informed approval is not required as the project will not impact wetlands.

Chairman Tenhave informed the Commission he has discussed this with Tim Thompson, Community Development Director, whose only comment was the need to ensure the depth is sufficient to avoid water.

Commissioner Lehman questioned whether the method is easier to use because the area is a lower grade wetland. Attorney Michael stated the only reason for using this method is to avoid the wetland, and noted it could be used in a higher grade wetland. Chairman Tenhave remarked with a wetland with standing water there is concern over where the water table is, etc. Chairman Tenhave noted the existence of a stream (to the left) and questioned the distance. Attorney Michael stated the area is beyond the sewer pump station (decent distance away). When asked about the distance that would be trenched, Attorney Michael stated he was unsure, but suggested it would be 100-200'. When asked, he stated his belief the project would commence in the spring.

There being no further questions, the Commission thanked Attorney Michael for his time. Chairman Tenhave stated he would forward a communication to the Zoning Board of Adjustment noting the Commission has no objections, comments, or recommendations on the approach.

OLD BUSINESS

1. Red Maple Trail and Conservation Drive at Grater Woods.

Commission to review feedback from Forester on those two projects and take appropriate action.

Chairman Tenhave noted Commissioners were provided with a copy of a bid specification created in 2010, which did not go out to bid, as well as a letter received from Mr. Cyr of Bay State Forestry Service providing his opinion, after evaluating the property. Chairman Tenhave noted the Commission has already approved the project; however, he wished to highlight a few areas.

In his letter, Mr. Cyr recommends placement of a 1½" crushed stone bed (approx. \$6,500 - \$7,000) across the trail. It is his belief if the bed were prepared in this manner it would lessen the need for future maintenance and/or reduce maintenance costs by creating a more stable base. By doing so the road would be better suited for wheeled vehicles, e.g., would provide better bed for access by emergency vehicles. Chairman Tenhave noted this is the main wheeled access point on that side of the property, and he is in agreement with the recommendation.

Commissioner Lehman stated his agreement; however suggested 1½” stone is a large roadbed. Commissioner Currier agreed. Commissioner Lehman suggested a smaller grade would also compact better. Commissioner Perry questioned the size of the stone used on the Gateway Trail. Vice Chairman Caron suggested it is 1½”. Commissioner Lehman stated the size creates difficulty especially for smaller tires, e.g., bicycles. Vice Chairman Caron stated, given the elevation changes are slight; he does not believe 1½” is necessary. He questioned whether it is intended to be compacted into the natural material. Commissioner Lehman remarked he has spoken with the Cooperative Extension about the issue, and stone smaller than 1” can be utilized. Commissioner Currier suggested 1½” stone could be placed with ½” to 1” inch on top. Commissioner Lehman remarked he did not believe 1½” would compact down and become part of the sub-surface. He noted there would be more stone dust in the mix and it would become more solid.

Commissioner Perry stated a desire to recommend a smaller stone. Commissioner Thomson remarked it appears the Commission is in agreement with the overall concept; however, the details of the diameter of the crushed stone should perhaps be discussed further. He stated he would tend to defer to the experts on road construction. Commissioner Currier spoke of the use of asphalt in many area parks and the ability to make an area handicap accessible.

Chairman Tenhave spoke of the spreadsheet provided outlining work to be performed at the individual locations. He informed the Commission he has spoken with Kyle Fox, Deputy Director, Public Works Department, regarding the format used. Deputy Director Fox is of the belief the format will be acceptable to the New Hampshire Department of Environmental Services (NHDES). Also discussed was the possibility of putting both projects out to bid as a single project. Mr. Cyr is in agreement the projects should be put out to bid as one.

With regard to Conservation Drive, Mr. Cyr has expressed concern with having to construct a road between two wetlands. He would like to bring the road into the property and loop it into the Red Maple Trail. Deputy Director Fox has stated the need to be able to get equipment into the area. Commissioner Perry stated, at the base, there is a large concrete bunker with a steel plate. Water hits that, stops and drains out. It basically catches the particulate and only allows water to flow through. That bunker is full of sand, etc. Chairman Tenhave stated there is a drop inlet at the top of the road that drops the water 30+ feet in elevation to where it hits another concrete structure. Those structures need to be maintained. The idea of the project is to allow maintenance vehicles access to perform necessary maintenance as well as provide for emergency access. The road needs to be gradual enough to handle that traffic.

Vice Chairman Caron questioned whether the guardrail would be continued, and was informed that is not included in the specifications. Commissioner Perry remarked the area in question has a much more gradual slope than the area where the current guardrail is located. Commissioner Currier suggested, once the road is open it would be utilized by cars, and should likely be gated. Chairman Tenhave noted a gate is included in the proposal (opening wide enough to allow desired uses).

Commissioner Currier was disappointed the road would not be used for off-street parking as it is the only area that is accessible. He spoke of the winter use of the property and vehicles parking on the street, which is prohibited during winter months. Commissioner Lehman questioned whether a parking area could be put in place. Commissioner Perry remarked although there is physical space for it, where the corner begins the grade is low and close to the wetland. Commissioner Lehman suggested a parking area prior to the drop inlet. Commissioner Perry stated the area does not have sufficient space (width). Commissioner Currier remarked with 500 acres it is the only parcel without parking (limited at the school), and suggested the Commission should be considering an area for parking. He noted costs would be lessened if a parking area were incorporated into an ongoing project.

Commissioner Lehman questioned the amount of distance behind the guardrail. Commissioner Perry stated his belief the amount of width would not accommodate two vehicles and would be on the edge of the wetland.

Chairman Tenhave noted Mr. Cyr also suggested the contractor could dig the holes and install a kiosk if one were constructed. Commissioner Perry suggested the holes could be dug and two 4 x 4s could be installed. Once that was in place, a kiosk could be installed at any point in the future.

Chairman Tenhave requested a volunteer to serve in the capacity of Liaison for the project, and outlined some of the work involved, e.g., work with Mr. Cyr and Deputy Director Fox, attend bidder meetings, participate in the staking of the property, keep the Commission apprised of progress, etc. Vice Chairman Caron agreed to take on the responsibility. Commissioner Lehman stated a desire to be involved, but was acceptable to Vice Chairman Caron taking the lead. Vice Chairman Caron committed to informing members of large events so as to facilitate participation.

Chairman Tenhave provided a photograph showing the steep entry to the area (Conservation Drive access) and the location of the guardrail. He also identified the area where the access road is proposed. For the benefit of new members, he identified the areas where access is needed to perform necessary maintenance. Vice Chairman Caron noted he has visited the area, and the cul-de-sac has been plowed and is fully open. When asked where he had envisioned the ability for parking, Commissioner Currier stated the end (lower level) of the cul-de-sac. Commissioner Lehman noted there are means of building up an area to provide enough space for parking (would increase costs). Chairman Tenhave spoke of a special drainage area; however, was unclear of its exact location. Commissioner Perry noted the area has to be kept up, e.g., the drop inlet is elevated so that all standing water is not drained. The other side of the access path is a specially designed runoff area.

Commissioner Currier stated his recollection after the foot of the hill, off to the right, heading north (towards school); there may be a location where parking could be accommodated. Commissioner Lehman remarked there are certain restrictions you would want to adhere to with regard to buffers when circling a vernal pool with a road. He commented the habitants of vernal pools utilize an area beyond that of the pool during different stages of their lives, and one of the guides in good forestry, etc. is not to have roads near vernal pools. He suggested the Commission look into that further. Commissioner Perry noted the area flows and is more of a wet location (versus standing water). Vice Chairman Caron remarked the two-tire trail that can be seen today is much closer to the vernal pool than the proposed road would be. Commissioner Lehman clarified his concern is that the road would encircle the pool. He reiterated the Commission should conduct further research and request guidance, and offered to spearhead that effort.

Chairman Tenhave noted only half of the pool would be encircled. Commissioner Lehman stated the open area would not bring the inhabitants to the wetland on the other side. Vice Chairman Caron noted a flat box culvert is proposed underneath, which could be used rather than traversing the trail. He added the project would take away a trail that goes down a steep slope into the vernal pool and make a designed road that will likely pitch off to the other side (would not add to the area of wet). The ability to come down the steep slope will have to be closed off, which is why he had questioned whether the guardrail would be extended. He suggested a snow fence could be permanently placed. Commissioner Perry suggested a timber fence would be more aesthetically pleasing.

Commissioner Perry explained at the end of Conservation Drive is a drainage ditch and a drain. The drain goes to a culvert that goes underneath the road and literally down the hill into the trail. The area was dug up and geotextile fabric was put down in the hopes of regrowth; however, constant use wore it away. The culvert extends across the Red Maple Trail and into the riprap on other side of the drain (other side of trail). Vice Chairman Caron commented the geotextile fabric is working well and noted ATVs are coming down the trail with their brakes all the way on without causing too much erosion.

Vice Chairman Caron questioned the placement of the gate. Commissioner Perry stated his belief it would be on the road at the end of the cul-de-sac. Vice Chairman Caron suggested if it were placed at the end of the guardrail it would provide an anchor of sorts. The gate could be made to a standard width disallowing vehicular traffic being able to traverse around it. He suggested the kiosk could be placed next to the gate.

Chairman Tenhave stated the projects would be combined into a single bid sheet and work would be coordinated with Deputy Director Fox. The intent would be to bring bidders onsite during the wet season (after stakes can be put in the ground) with the hope the project could be bid in the spring and work completed during the summer months.

Commissioner Perry spoke of the issues noted; potential to change the size of stone used, location of gate, addition of guardrail, etc., and suggested an estimate be sought for those items before taking a vote on a not to exceed amount for the project. Vice Chairman Caron suggested a quote be requested for the items identified. Chairman Tenhave commented what has been provided is Mr. Cyr's best estimate, and actual costs will not be known until bids are received.

The consensus of the Commission was to request Mr. Cyr adjust his estimate based on the items the Commission has requested be addressed. Chairman Tenhave stated the request would be made and a discussion placed on the agenda for the Commission's next meeting.

2. Grater Woods Stewardship Plan Review

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

Vice Chairman Caron provided a map detailing a proposed trail (Category B), which he stated has been envisioned on and off since the parcels were purchased (originally referred to as Skyline Trail). The trail extends from the current end of the Ridge Trail and goes along the property border until it passes the Millipede Trail and heads back in to the area of the proposed D3 Trail. It would create a junction where this trail, the D3 Trail and South Grater Road would all join. He touched upon the views the trail would provide, e.g., beaver pond, etc.

Commissioner Thomson questioned the length of the trail, and was informed it would be slightly over 2 miles. When asked, Vice Chairman Caron stated it would share the same trail entrance as the D3 Trail; however, the trail would not interfere with any of the proposed motorized trails. Chairman Tenhave questioned bringing the trail further south to intersect somewhere in the middle of the D3 Trail. Vice Chairman Caron responded that could be done; however noted it is quite a bit steeper. He added there are already a few motorized trails that traverse that steep slope, and his attempt was to avoid motorized areas.

Commissioner Lehman stated his only concern would be creating a battle for space, e.g., the proposed D trails are not yet in final layout. He suggested a priority be assigned to trail development. Chairman Tenhave suggested the layouts could be created simultaneously to provide for the necessary give and take, and commented a nice aspect of the proposed trail is its location near the property line making the property line easy to monitor. Vice Chairman Caron remarked he would envision, as part of the trail, a lot of the rogue trails that are coming across property lines would be closed down. The only section of trail that currently exists is in the area where the Ridge Trail comes in and meets up with the link; there is a downward piece that goes towards the bottom of the property. That section dead ends at a dry riverbed, which would necessitate a crossing.

Commissioner Lehman reiterated his only concern is with the potential for conflict with motorized users and non-motorized users planning out trails. He remarked, at presented, there is a deficiency for motorized trails in the multi-use property and plenty of non-motorized trails. Commissioner Perry remarked all trails are in the planning stage and the Commission will have the final say as to layout. Chairman Tenhave suggested a note be included on the plan that the proposed D4 Trail and Skyline Trail be mapped out at the same time.

Commissioner Lehman questioned whether further information was available as to the origination of the note for the Stand H description on the D4 Trail. Commissioner Perry responded he has not had any success in determining who recognized the area as a deer yard, which is the reason for limiting activity in the area. He noted the Commission changed the note to read "The stand should remain mainly undisturbed by forestry or seasonal recreation." Commissioner Perry commented he is attempting to determine what the recognition as a deer yard truly means, e.g., whether there is a responsibility to stay clear of the area completely, etc.

Commissioner Lehman responded the County Forester did not imply there was a need to avoid the area during the off-season. Commissioner Perry commented the plan was written by a forester who did the forestry in the area. Commissioner Lehman noted the statement was not put in the forestry plan. Commissioner Perry remarked the State recognizes the area as a deer yard and it is incumbent upon the Commission to understand the meaning. Commissioner Lehman reiterated it was not in the forestry plan. The forester recognized there is a deer yard, but believed motorized trails would not impact it due to the time of year the trails would be utilized. Commissioner Perry reiterated the Commission has changed the wording to seasonal; however, will continue to research for answers as to the origination and implications of the note.

Commissioner Currier spoke of handicap access on the trails and commented the Commission has not given that aspect a great deal of consideration. He would like to see consideration given to providing handicap access to an area where a good view is provided. Chairman Tenhave questioned whether Commissioner Currier believed the layout of the trails would have to change to provide handicap access, and was informed he does not believe that would be necessary. Commissioner Currier stated an individual in a wheelchair could not traverse over 1½" of gravel; however, could gain access over a tarred area. He reiterated there are tarred access areas in existing parks. When asked, he stated there is no need to hold the plan back; however, that type of access should be added.

Commissioner Perry spoke of walkways built in the observation area. He was unsure of the material used; however, noted the material drains (is not stone dust) and allows for wide trails. Vice Chairman Caron commented he and Commissioner Perry attended a recent ROST meeting conducted by the Milford Conservation Commission at which a presentation was made by the national coordinator of ADA compliant trails. Most of the trails spoken of aren't yet constructed; are on paper and in planning stages. There isn't really a guidebook on how to construct them due to the variety of requests, e.g., mobilization devices desiring pavement, wider trails to allow for several users including those walking at a slower pace, etc. Commissioner Perry noted one of the important factors that were identified was the need to inform of obstacles, e.g., steps, steep slope ahead, etc.

Vice Chairman Caron noted the Stewardship Plan (Plan) includes the type of information that would identify whether or not a particular trail could be traversed by an individual with particular needs, e.g., identifies bridge crossings, where a trail dead-ends, etc. He reiterated the advice provided was to include such information within the Plan and post the Plan to the website so the information is readily available. Commissioner Currier remarked the trails he has visited have been designed so that an individual with the least amount of mobility can gain access. Commissioner Lehman spoke of attending the workshop Saving Special Places and a class he participated in where the issue surrounding Other Power-Driven Mobility Devices (OPDMD) was discussed. What was stressed as the most important aspect in developing a plan was to conduct an analysis of the trails, citing obstacles, etc. and identification of trails most suitable for these devices. Without such a designation, OPDMDs could be utilized on any trail, which could result in liability issues.

Commissioner Lehman suggested the trails closer to the school could be identified as they don't have a great deal of obstacles, are more accessible, etc. He suggested the Plan include a section dedicated to handicap access. Vice Chairman Caron noted there is not currently an access point for such devices. He remarked a particular individual's OPDMD could be an ATV, which could not gain access to trails at the school. Commissioner Lehman suggested the type of device that could be utilized on particular trails could be specified. He suggested all that is required is that the issue be addressed and an explanation provided, e.g., only these types of devices due to topography, etc.

Commissioner Perry suggested the issue be included in Appendix F – Proposed Projects and Trails as the lead item, e.g., adapt plan to address handicap accessibility guidelines. Vice Chairman Caron reiterated the coordinator at the national level has stated guidelines are not yet established. Although it should be in the forefront of the future development of the Plan, there is nothing at the State level at this time and nothing at the national level at this time. He added, in the near future, there will be a handicap access point (Conservation Drive).

The consensus of the Commission was to move forward with the Plan and address the issue of handicap access and OPDMDs as the first item within Appendix F – Proposed Projects and Trails.

It was noted the issue needs to be addressed on all properties.

Chairman Tenhave remarked, at the last meeting, Mr. Blais questioned when the Right Riders ATV Club (Club) would be able to begin the process of trail layout. During that meeting Chairman Tenhave stated his desire to have the necessary infrastructure in place prior to constructing any new trails. He suggested the inclusion of a section identifying the infrastructure needs to be addressed in advance of expansion of the current trail system. Once identified, the Commission would be able to solicit the proper assistance, identify funding, etc.

Commissioner Lehman noted the Club was informed the process of identifying (GPS) location, etc. could begin. Commissioner Perry added the Commission specifically stated flagging could not occur. Commissioner Lehman stated the Club did request that limited flagging be allowed. Chairman Tenhave responded, when the Commission has reached the point of making a decision on layout that would be the appropriate time to have some delineation of the proposed trails in place; however for initial surveying nothing should be put in place.

The Commission was in agreement a paragraph be added to the beginning of Appendix F entitled “Necessary Infrastructure to Support Future Trails” and that it identify the following areas to be addressed:

- ***Wet area at the bottom of Gateway Hill***
- ***Crossing at bottom of Beebe Lane (where wetland signs were posted)***
- ***Two hills leading out of Wildlife Openings 1 and 2 (where Gateway and Brickyard meet going west on the hill); riprap has been washed away and is not supporting the hill/slope.***
- ***Gates on South Grater Road***

Commissioner Lehman suggested a gate or some sort of obstacle be placed at the intersection of Brick Yard and Gateway to discourage motorized use. Concerns were raised with regard to ease of access by emergency vehicles. Commissioner Lehman was asked to research other type(s) of devices that could be utilized.

Chairman Tenhave stated a desire for the infrastructure issues to be addressed in parallel with the development mode. Commissioner Lehman stated a desire to see some of the infrastructure issues, such as the wet area at the bottom of Gateway Hill and the wildlife openings, addressed while the Red Maple Trail/Conservation Drive project is being undertaken as equipment would already be onsite. Vice Chairman Caron was asked to query Mr. Cyr about the possibility and what, if any, concerns he would have.

While speaking to the issue at the bottom of Beebe Lane, Commissioner Perry questioned whether the possibility of gaining access through a land swap could be revisited (regaining use of the gate). Chairman Tenhave suggested that could be looked at long-term. He reminded the Commission the gate was intended for emergency access. Commissioner Perry stated the reason Beebe Lane has been an issue is the inability to access it. He noted ATVs are used to patrol the area. Vice Chairman Caron remarked he was of the belief the bridge would not provide for motorized use. He noted the trail is a Category B trail, and reminded the Commission once Conservation Drive access is constructed that area can be used.

NEW BUSINESS

1. Winter Carnival

Determine if the Commission wants to participate in the Town's Winter Carnival at Wasserman Park sponsored by the Parks and Recreation Department and Committee on Saturday, February 23, 2013.

Chairman Tenhave questioned the will of the Commission with regard to participation at the 21st Annual Winter Carnival at Wasserman Park. In the past, the Commission has participated and filled 1 or 2 tables with various

brochures for some of the properties, maps, etc. The Commission agreed to participate. Vice Chairman Caron and Commissioner Perry volunteered to coordinate participation and man the table(s).

2. www.merrimackoutdoors.org website

Update the Commission on the website and see what actions the Commission may want to pursue in 2013.

Chairman Tenhave noted the website has been live for 6+ months. He questioned how the Commission would like to move forward, e.g., additional content, mobile compatibility, etc. When asked to clarify, he explained a mobile version excludes photos and advertisements, which makes it more user friendly when accessing via a cell phone (has associated cost). Commissioner Perry commented he has not had difficulty viewing items included on the website when utilizing his cell phone.

Chairman Tenhave requested Commissioners continue to give consideration to additional information that could be incorporated. He spoke of historical data he intends to add on Wildcat Falls and the lack of information on Fields Farm, etc. Vice Chairman Caron stated a desire to see better, more consistent maps and suggested the Commission consult with a professional and/or the Town Center Committee.

OTHER BUSINESS

Chairman Tenhave noted work continues on the filing system, and informed the Commission of his intent to spend additional time working on the files on the morning of February 1st. He invited any member of the Commission interested to participate.

Chairman Tenhave reminded the Commission individuals interested in joining the Wildcat Falls sub-committee will be in attendance at the next meeting.

Chairman Tenhave spoke of newspaper articles advertising a Horse Hill Nature Preserve Snow Shoe Race coming up in February. Vice Chairman Caron stated his belief the event would be conducted on February 9th.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. January 7, 2013

MOTION BY COMMISSIONER LEHMAN TO TABLE THE MEETING MINUTES OF JANUARY 7, 2013
MOTION SECONDED BY COMMISSIONER THOMSON
MOTION CARRIED

5/1/0
Commissioner Tenhave voted in opposition

PUBLIC COMMENT – None

COMMISSIONER COMMENTS - None

ADJOURNMENT

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

The January 22, 2013 meeting of the Merrimack Conservation Commission was adjourned a 9:03 p.m.

Submitted by Dawn MacMillan