



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

NOVEMBER 19, 2018

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, November 19, 2018 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Chair Gage Perry presided:

Members of the Commission Present: Matt Caron, Vice Chair
Michael Boisvert
Cynthia Glenn
Steven Perkins
Councilor Peter Albert

Members of the Commission Absent: Gina Rosati
Tim Tenhave, Alternate Member

Also in Attendance: Carson Petrie, Boy Scouts, Troop 48
Renee Hough, Home Depot

PUBLIC COMMENT

Life Scout, Carson Petrie's Eagle Scout project was the construction of 4 benches in Grater Woods; Red Maple Trail near entrance to the Eagle Trail, intersection of Red Maple and Gateway Trails, and one at either end of the View Trail.

Monies raised through fundraising efforts exceeded the cost of the project. He expressed the desire to donate the remaining balance to the Commission.

Chair Perry suggested plaque(s) be placed identifying who donated the benches. Remaining funds could be utilized to cover the cost.

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS - None

NEW BUSINESS

1. Review draft of 2019 meeting schedule

The consensus of the Commission was to accept the calendar as presented.

OLD BUSINESS

1. Home Depot amendment of site plan

Renee Hough, Home Depot, commented on having watched the broadcast of the Commission's November 5th meeting, during which a question was raised regarding storage of the sand/salt used for the areas around the store that are maintained by employees.

The service provider was contacted and indicated they would be able to provide the store with the same sand/salt mix used on the parking lot to avoid variations.

The store has a process for handling of the front and back of the store. It is called a salt station, and is basically a heavy-duty Rubbermaid container (ice station) that contains the sand/salt mix (5 gallon bucket); located at the lumber pad, receiving area, and main entrance.

The concrete apron in the front of the store, lumber pad, against the doors, and emergency exits are cleared and treated by the store. The service provider addresses other areas. Ms. Hough commented typically they utilize sand alone in those areas.

Chair Perry noted the Site Plan identifies the requirements. The Commission can make its recommendations to the Planning Board. From there, they would have to look to change the regulations under the Site Plan they are operating under.

Asked how much would be stored onsite, Ms. Hough stated the service provider estimated there would not be the need for more than 50 gallons. She believes a 50-gallon bucket to be too cumbersome. One bucket would be stored in the garage so that the service provider can leave the mixture. She anticipates that being a 30-gallon container. Employees would scoop the mixture out of that 30-gallon drum (with locking lid) to distribute amongst the three 5-gallon buckets (exterior of the store in ice station).

Asked about clean-up, Ms. Hough indicated they utilize a street sweeper. That may change with the use of the salt mixture.

Chair Perry stated the site has never been permitted to utilize salt because of its proximity to the wells. That has not changed.

Being proposed is an 80/20 sand/salt mix throughout.

**MOTION MADE BY COUNCILOR ALBERT TO ACCEPT THE PLAN FOR THE
SAND/SALT MIX STORAGE AS PROPOSED
MOTION SECONDED BY COMMISSIONER PERKINS**

ON THE QUESTION

Commissioner Boisvert asked if the 80/20 mix being spread in the parking lot is dependent upon

conditions. Ms. Hough responded, originally that is what the service provider had indicated, e.g., occasionally. However, she is not 100% certain. Worst days could be open to interpretation. Simply stating the mix is what will be used would likely be the best call.

Asked if they do or plan to do any pre-treatment, Ms. Hough stated they do not, and her recollection is that the research did not result in a determination.

Chair Perry commented regardless of what is utilized, material would be washed into the aquifer. There is no one product that is better than another.

Ms. Hough stated Home Depot is willing to conduct testing. The question was where to start. If looking for a baseline, there is no salt being used up there. Chair Perry suggested that would be the baseline. The engineer has indicated testing at the bottom of the hill would be the best location. Chair Perry spoke of existing test pits that were drilled during construction. Ms. Hough stated uncertainty over whether they are functional.

Chair Perry stated the desire for a baseline to be established that accounts for Home Depot alone. Vice Chair Caron questioned, and was informed there would be no storage of sand alone onsite. Asked if the sand cleaned by the street sweeper is left onsite, Ms. Hough indicated she would seek an answer to that.

Ms. Hough indicated the Home Depot engineers seem to be familiar with the test pits, but nobody has touched them. She reiterated they are willing to conduct the testing, and questioned if the desire is for the engineers to provide a proposal as to what that would look like, e.g., for a three-year period and then a longer timeframe if no impact is seen. Asked how it would be determined what the impact is, Chair Perry stated there would be the need to get someone like the MVD involved who understands water chemistry.

Councilor Albert questioned if a request could be made of MVD. Chair Perry stated the need to have identified what testing should be done, where the wells are located, etc. Commissioner Perkins questioned if the MVD is already performing tests. Chair Perry will contact the MVD to identify what they are doing in the area.

Vice Chair Caron suggested the Commission could make its recommendation to the Planning Board and they could in turn request input from the MVD.

**AMENDED MOTION BY COUNCILOR ALBERT TO ACCEPT THE PLAN FOR THE SAND/SALT MIX STORAGE AS PROPOSED WITH THE RECOMMENDATION THAT THE PLANNING BOARD SEEK THE COUNCIL OF THE MERRIMACK VILLAGE DISTRICT AS TO TESTING OF THE WATER AND WELLS IN THAT AREA
MOTION SECONDED BY COMMISSIONER PERKINS
MOTION CARRIED**

5-1-0

Commissioner Glenn voted in opposition

OTHER BUSINESS

Sklar Waterfront

Commissioner Boisvert spoke of the Sklar property, and questioned if Commissioners could be onsite to identify where rocks (when found) should be placed.

Work was done on the property over the prior weekend. Fourteen posts were put up. The signs note the restrictions as well as the purpose of protection of the Merrimack waterfront. Mr. Mark Twardoski participated in the effort, and has indicated a willingness to donate his equipment. If rocks are delivered, he will take care of placement behind the signs to help keep them secure. The Town Manager, Police Chief, and PWD have been notified of the work that was done. They are aware the Commission is ready to have rocks delivered at any time.

Commissioner Boisvert spoke of casings viewed onsite. He questioned placement of additional “no shooting” signs. Vice Chair Caron suggested they could be placed on existing posts, and offered to address the issue.

Vice Chair Caron commented posting all of the information about that property in the kiosk that is being constructed will be paramount. He stated his desire for getting the old rock bridge rehabbed and exposed to be a priority of the Commission. It was noted the Historical Society has shown an interest in the property.

Commissioner Glenn stated her recollection the area was designated as “no hunting”. Chair Perry stated the Commission’s portion of the property is no discharge of firearms, air powered or otherwise. He was uncertain of the designation of the Town’s property, e.g., park land. Vice Chair Caron stated he is aware NH Fish & Game has been on the property, and not told hunters to leave. Chair Perry commented, as part of the Chapter 111 review, the intent would be for contiguous parcels to be identified and managed in a common way.

- Sub-committee Updates

Wasserman Conservation Area

Vice Chair Caron noted the installation of the kiosk, and questioned if a map could be printed and posted. Chair Perry stated that could be done, although there may be an associated cost. Vice Chair Caron requested small copies be printed and that a map box be purchased and installed. He will research optional map box solutions, and bring information forward for the next meeting.

Grater Woods

Vice Chair Caron spoke of several Eagle Scout projects that have been completed; Observation Deck on School Loop, four benches constructed by Life Scout Petrie, and the Outdoor Classroom.

He spoke at length about the quality workmanship and manpower that went into the Outdoor Classroom, and suggested the Commission consider conducting one of its meetings in that location next spring/summer.

The Sub-committee will meet on Tuesday, November 27th.

Horse Hill Nature Preserve (HHNP)

Commissioner Glenn noted the need for additional maps.

Sklar Waterfront

Two individuals have expressed a willingness to serve on the Sub-committee.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. November 5, 2018

The following amendments were offered:

Page 2, Line 24; insert “the” before “bank”

Page 3, Line 33; insert a “.” after “walk-out”

Page 8, Line 21; replace “Member Petrides” with “Sub-committee member Liz Petrides”

Page 8, Line 25; replace “as” with “was”

MOTION BY VICE CHAIR CARON TO ACCEPT, AS AMENDED

MOTION SECONDED BY COMMISSIONER GLENN

MOTION CARRIED

5-0-1

Vice Chair Caron Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Councilor Albert spoke of discussion that occurred during the site walk of the Sklar property regarding possible penalties/enforcement. He is aware in one situation the dredging laws under RSA 482-A were cited. The purpose of the law is to protect and preserve wetlands as well as tidal and freshwater areas. Based on that, anyone who would purposely damage these properties could be charged with a misdemeanor and/or receive a civil penalty of up to \$10,000 and be required to pay reparations.

A situation he was involved in several years ago was related to an individual with a large four-wheeled vehicle who went rolling through a section of the HHNP that was wetlands, creating ruts, etc. A member of the Commission reported it and the Police Department was able to obtain the license #, identify the individual, and charged him.

RSA 215-A:6 Operation of All OHRVs, reads in part: “IV. It is unlawful to operate any OHRV so as to endanger any person or damage any property.” That would also be a misdemeanor as well as require restitution.

Asked if that would cover damage to signage, Councilor Albert indicated it cites that specifically under 215-A:33 - Removal or Defacing Signs or Markers.

Councilor Albert noted NH Fish & Game has the authority to administratively suspend an individual’s OHRV privileges.

Under RSA 634 - Destruction of Property, 634:2 - Criminal Mischief, addresses when someone purposely or recklessly damages the property of another. If the loss is in excess of \$1,500 it becomes a Class B felony.

Councilor Albert used the example of damage occurring at the Sklar property commenting if an individual is damaging signs, etc., if utilizing a vehicle, a request could be made for a 90-day loss of driver's license.

There is also criminal trespass if an individual has been asked to stay off the property and returns.

If an individual were to fail to follow a lawful order to cease and desist some type of improper activity, it could fall under disorderly conduct.

Under RSA 263:59 - Suspension for Incompetency or Improper Driving, the DMV can suspend, without a hearing, when an individual is driving improperly. You have to make that determination. If an officer encounters a youth operator who is doing something improper in a motor vehicle, he can send a letter to the DMV and they will send a notice and suspend that youth operator's license.

Commissioner Boisvert commented there is an RSA regarding obtaining permission of a property owner to operate a motorized vehicle on their property. He suggested posting information on State RSAs at kiosks. He spoke of another community that posted signage encouraging users of trails to report certain activities.

ADJOURNMENT

MOTION BY VICE CHAIR CARON TO ADJOURN
MOTION SECONDED BY COMMISSIONER GLENN
MOTION CARRIED
6-0-0

The November 19, 2018 meeting of the Merrimack Conservation Commission was adjourned at 8:00 p.m.

Submitted by Dawn MacMillan