



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

OCTOBER 7, 2019

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, October 7, 2019 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Steven Perkins, Vice Chair, presided:

Members of the Commission Present: Gina Rosati, Secretary
Michael Boisvert
Cynthia Glenn
Gage Perry
Eric Starr, Alternate Member
Michael Swisher, Alternate member
Tim Tenhave, Alternate Member
Councilor Peter Albert

Members of the Commission Absent: Matt Caron, Chairman

Also in Attendance: Nathan Chamberlin, Engineer, Fieldstone Land Consultants
Paul Labrie, 30 Beebe Lane
Marjorie Bower, 28 Beebe Lane
Jeff Hoye, 7 Tomahawk Drive

Vice Chair Perkins designated Tim Tenhave to sit for Matt Caron.

There being no objection, the Commission went out of the regular order of business to take up Statutory/Advisory Business.

STATUTORY/ADVISORY BUSINESS

- 1. RH Cars, LLC, (applicant) and Sunnyside Real Estate Holdings, LLC (owner)** – Review for recommendation to the Planning Board for a site plan to construct a paved car sales lot where the existing area is gravel. The parcel is located at 113 Daniel Webster Highway in the I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 2D, Lot 018-1.

Nathan Chamberlin, Engineer, Fieldstone Land Consultants, stated the proposed project to be the expansion of an existing facility; primarily for display and storage of vehicles for sale.

The existing facility includes a display area, parking area, and area of gravel, which is located within the Aquifer Conservation District. The intent is to expand into the gravel area for the purpose of creating an additional (paved) area for display.

In addition, eleven parking spaces would be added in the area of customer/employee parking (total of 20 spaces). The project has been granted conditional approval by the Planning Board. A waiver was granted for the parking; code requires 30-40 spaces. Additional lights (downcast) are proposed.

Currently the entire area drains down to the lower corner. That is mimicked with the grading plan. There are a series of catch basins draining into a leaching trench system to infiltrate as much as possible back into the ground. The area is made up of Hinckley sandy soils, which are conducive to that. Test pits were done to verify.

Commissioner Perry noted requirements for plantings, etc. are approaching their deadline. Mr. Chamberlin commented in the worst-case scenario, the paving could be completed prior to winter, and the plantings done in the spring. Winter Rye or something similar could be put in place to stabilize any disturbance.

Asked how ice would be addressed, Mr. Chamberlin suggested there should not be a large demand for deicing; the intent is simply vehicle storage.

The Commission requested use of de-icing compounds be minimized, and that applicators be Green SnowPro Certified. In addition, the preference is for no-phosphate, slow release nitrogen fertilizer, if needed.

Commissioner Perry mentioned the note regarding clearing small trees, and questioned if stumps would be buried on site. Mr. Chamberlin spoke of the minimal amount of clearing. He indicated other alternatives could be sought, although he is not confident of what other area there is to bury stumps.

Commissioner Perry stated he would not want to have stumps buried upstream of a wetlands, and the need for the plans to note any areas where stumps are buried. Mr. Chamberlin noted the area is 20-30' above the wetland, but that it could be looked at.

Commissioner Boisvert questioned if, in the event of a gas leak or something similar, the flow would go into the catch basin and be separated, and was informed that is the case. There are hoods on the catch basins. They are serviced on a regular basis (typically twice a year).

Commissioner Tenhave asked for clarification of whether there are oil and water separators. Mr. Chamberlin stated there to be hoods on the catch basins. Any oil/petroleum floats and is trapped.

The Commission returned to the regular order of business.

PUBLIC COMMENT - None

PUBLIC HEARINGS

- 1. Chapter 111 of the Town Code** – The Conservation Commission will conduct a public hearing to consider the recommended changes to Chapter 111 of the Town Code.

Vice Chair Perkins declared the Public Hearing open at 6:44 p.m.

Vice Chair Perkins explained the purpose of the Public Hearing was to gather input on the recommended changes to Chapter 111 of the Town Code.

Commissioner Tenhave noted, in the Town of Merrimack, all Ordinances (laws of the Town) are covered in what are known as chapters in the Town Code. Chapter 111 covers conservation properties. Being proposed is an update to Chapter 111. Although not a legally required Public Hearing, it is an opportunity to make the citizenry aware of changes being proposed and gather any input the public might have.

The parcels being discussed have already been agreed to by the Commission and Town staff as parcels that could be included in Chapter 111. Once input is received from Town staff and a legal opinion provided, the Commission will formulate what it would consider, from its perspective, a final version of the proposed changes, which will be presented to the Town Council for feedback. Any adjustments/changes recommended by the Council will be incorporated and the project brought back before the Council to go through the required legal process to change the Ordinance for Chapter 111. The Council has a three-step process, which includes 3 public hearings.

The current Chapter 111 covers 6 parcels (Wildcat Falls Conservation Area, Riverside Drive, French Court, Hitchin Post Lane, Woodward Road, Mitchell St.) all having the same restrictions:

- Cannot remain or stay from ½ hour after sunset to ½ hour before sunrise
- No fires unless approved by the Merrimack Conservation Commission and Fire Warden
- No glass
- No throwing or leaving trash
- No alcohol or unlawful drugs
- No parking or driving except in designated areas
- No OHRV as defined in [RSA 215-A:1](#) except for fire, police, ambulance or emergency
- No domesticated animals unless on a leash, rein, or in a cage
- No discharge of air-powered or spring-powered gun, any type of bow, or firearm
- No defacing of any building, equipment, tree, shrub, or flower

The penalty for violation is in accordance with [RSA 31:39, III](#).

The proposed update would result in 62 parcels being covered under Chapter 111, having the same penalties and falling within four categories in terms of restrictions.

Commissioner Tenhave commented the term parcel is used often and intentionally as some refer to Commission properties as a property like Grater Woods, Horse Hill Nature Preserve (HHNP) or Wildcat Falls. In the case of Wildcat Falls or HHNP, they are one parcel I.D., but in the case of Grater Woods there are 10.

The categories and associated restrictions are as follows:

All - General set of restrictions for all 62 parcels

- No fires
- No throwing or leaving trash, all trash carried out
- No alcohol or unlawful drugs
- No parking or driving except in designated areas

- No OHRV as defined in RSA 215-A:1, E-Bike, except for fire, police, ambulance or emergency or as authorized by the Town Council or designated agents
- No discharge of air-powered or spring-powered gun, any type of bow, or firearm for the purpose of target shooting without prior authorization of the Town Council or designated agents
- No defacing of any building, equipment, gate, barricade, wildlife, tree, shrub, or flower, or fauna
- No sleeping or camping overnight without authorization of the Town Council or designated agents

There would no longer be a restriction on glass. The leash requirement for domesticated animals is removed. E-Bikes are included.

The change would permit the Town Council, or designated agent, to override the no OHRV or E-Bike, portion of the restrictions.

New language includes “for the purpose of target shooting”.

Hours Restricted - Adds a dawn to dusk restriction where you cannot stay or linger

- Includes everything in the All category
- Adds, you cannot remain or stay from ½ hour after sunset to ½ hour before sunrise

Applies to 2 parcels:

- Wildcat Falls Conservation Area
- Riverside Drive

Currently hours are restricted on 6 parcels. The proposal is for only 2 of those 6 to have restricted hours.

Completely Passive - Adds no motorized of any kind, restricts any use of bow or firearm

- Includes everything in the All category
- Adds:
- No Snowmobiles as defined in [RSA 215-C](#)
 - Prohibits any discharge of a bow or firearm, which then restricts hunting

Applies to 13 parcels.

Well Property - Adds limitations due to it being within a designated MVD drinking well

- Includes everything in the All category
- Adds:
- Restrictions desired by the MVD for parcels within a well restricted area
 - We are not aware of anything that goes beyond the All category

Applies to 4 parcels.

The floor was opened for public comment.

Paul Labrie, 30 Beebe Lane

Has been a resident for nearly 20 years, the last five of which on Beebe Lane. His property abuts the Beebe Lane trailhead in Grater Woods directly alongside Beaver Pond, the exit to the brook to Baboosic Lake and the adjacent marsh lands.

He spoke of incidents that have occurred on the property witnessed by his wife, neighbors, or him pertaining to hunting. He noted his was not a statement from an anti-hunting person.

Four years ago there was an incident of hunters shooting less than 30 seconds after exiting their vehicles in violation of the State mandated 300' safety boundary. The Police Department was notified, listened to his wife's and neighbors' descriptions of the shooting, and upon listening to the hunters' explanation remarked they sound like they know what they are talking about in regard to the 300' safety boundary. The officer left not even checking the area for footprints or spent shell casings.

He arrived home to walk the shoreline at the bottom of the trailhead finding fresh boot prints in the mud in the pond and a spent 12-gauge shotgun shell in the grass, which smelled of a recent firing. The next day he measured the distance, which registered at 140' from his home. He contacted Fish & Game who walked the area, and saw the prints and the shell. He agreed that while they have probably shot and retrieved the ducks there without anyone seeing them, he could do nothing but issue a verbal warning, which he said he would do as he knew the hunters and remarked "they are dirty".

On two other occasions, approximately a year apart, while walking his dogs, he ran into hunters on the trail and taking a stand 30-40' off the trail. On the occasion where the hunter was standing on the trail, he remarked to him in passing "you would probably have more luck hunting in the actual woods" to which he remarked "yeah whatever" and stayed where he was on the trail (Drilled Rock trail near the abandoned tree stand). On another occasion while walking his dogs off leash with collar bells and orange vests, he walked into another hunter 30-40' off the trail who said "You better hope your dogs aren't seen chasing deer, they will get shot." At that point, he neither had a camera or cell phone to snap a photo of the man so he simply walked away.

Neither of these incidents were reported after the last attempt with the Police Department. However, he now carries his sidearm very discreetly in the woods during hunting season when he walks his dogs or takes his grandson for a hike.

For the past four years, at his cost, he has put in white markers 300' of the back of the abutters homes on the conservation property along Beebe Lane prior to the start of hunting season. While this appears to have helped with the illegal shooting directly behind their homes, the walking trails as well as the shoreline of Beaver Pond has also had an effect. Over time hunters have concentrated their shooting further down on the Gateway Trail side of the pond or used kayaks on the pond. He has taken regular walks with the dogs including walking through their duck stands, which were built using trees cut from the conservation area.

The thought of hunters discharging firearms within 300' of highly utilized trails is and remains a concern.

Over the past week, his daughter was startled while riding her mountain bike on the Brickyard Trail after a shot sounded close. He commented 300' is probably going to have no affect with bird or even buckshot, but a slug from even a non-rifled shotgun shell could kill somebody.

He stated the need for the hunting issue to be addressed. There are hundreds more people on the trails at some of the major sites at any given weekend during hunting season than there are hunters; many of whom use the trails for 2-3 weeks a year.

He questioned why the Commission is okay with restricting access hours to stop damage and unwanted partying in the areas, but not okay with modifying hunting rules at areas where there is high traffic or close

to abutters' homes. They live there year-round, it is their safety at risk, shouldn't that count for as much as damage to overlook or beer cans on trails.

Mr. Labrie stated he does not want to stop hunting on the sites. He believes one of the things that should be looked at is the location of some of the more used hunting spots in regard to people's homes.

Commissioner Boisvert requested clarification the area being discussed is Drilled Rock Trail in towards the cul-de-sac (pond area) as where the high traffic and largest problem area. Mr. Labrie stated that to be correct.

Commissioner Boisvert questioned the ability to restrict hunting in particular areas. Commissioner Tenhave stated it is possible to mark it. The issue is that of enforcement. Commissioner Perry noted the need for the language to be within the Ordinance in order for the police to be able to enforce it. It is difficult to cordon off a section of a parcel, which is why there is the 300' boundary. The Town cannot make anything more restrictive than the State law in regard to gun laws.

Asked if partial areas have been designated in the past, Commission Tenhave stated the Town has not. One of the Deeds on one of the parcels in Grater Woods had a designated area built into the Deed to keep it away from one of the active homes adjacent to Grater Woods. There was never an enforcement on it, and it only ran as long as the family stayed in that home. They have since moved on. Beyond that whole parcels have been done as a Town, including the 6 parcels in the current Chapter; don't allow discharge of a firearm, which essentially means you can't hunt.

Councilor Albert stated the desire to walk the area himself. Commissioner Gage commented on the high visibility of the 300' markers, and remarked were the Commission to section off a parcel it would almost be from Gateway all the way around to the far side (near where Drilled Rock starts).

Commissioner Perry remarked this has been attempted before. Legal counsel has been pretty adamant; you can try it, but it may not hold up in court.

Commissioner Glenn questioned if the Commission could sub-divide the parcel so that individual laws/rules could apply.

Marjorie Bower, 28 Beebe Lane

Commented her husband uses a ladder to post their metal no hunting signs so they cannot be taken down any longer. She spoke of hunters entering onto private property to hunt. They are shooting the no hunting signs. She spoke of having lived in Merrimack for over 35 years. Long before this was conservation land it was privately owned land. When hunting became an issue they contacted the private owners who had no idea that was occurring and did not want to be liable for someone getting injured. They provided her permission to post no hunting. Then it became conservation land. She questioned how the Town would not be liable if someone were to be injured on Town owned land while allowing all activities to occur.

She spoke of the constant firing of guns that can be heard loud and clear at 6:30 a.m. on Saturday and Sunday mornings. There are young children and elderly in the neighborhood. She questioned why target shooting is not permitted but hunting is. She spoke of being prisoners in their own homes during hunting season. She questioned if the liability factor has crossed minds.

Councilor Albert responded the question has been raised. He would like to conduct some research and request the Town Council research it as well.

Commissioner Tenhave welcomed everyone getting educated on the issue commenting he went through a similar discussion 16 years ago with the HHNP where hunting is allowed, and trails exist. The State has all rights to control the use of firearms. The only place where they don't have that right is on privately owned property. Because the State is responsible for the use of firearms and has taken that right away from the local municipalities, they essentially have made Towns and people not liable for accidents.

Noted was that the Commission is proposing there to be 13 parcels under the category of completely passive meaning hunting is restricted. On a majority of the parcels it is being proposed simply because it is already in the Deed. Once in the Deed, it circumvents State law (per legal opinion). If there is a Deed that excludes the use of firearms and the Deed is accepted when the property is purchased or when accepting a donation, we have to honor that. The way we honor that is by putting it in our Ordinance, so it is now enforceable. That's why it can be done on some of the parcels. He stated his belief neither of the parcels near the cul-de-sac of Beebe Lane have such language within their Deeds.

What he heard from legal counsel last (6± months ago) is that no one has ever actually challenged a town's ordinance in court against the State law. Hunters and others have threatened to, but no one has tested the law, so it hasn't withstood the scrutiny of the State Supreme Court. What the Commission has asked, and is proposing to do by these other parcels when restricting hunting, is to see if someone wants to bring it to court to test it. What we're trying to stand on is that we are the owners of those parcels and as owners we should have every right to restrict the use. Other towns have gone forward with no target shooting and no hunting on certain parcels waiting for that legal challenge to happen.

Ms. Bower stated her desire to have the area looked into noting it has been an issue for over 35 years.

Commissioner Tenhave commented on the size of the parcels. If the will of the Commission, the parcels could be included with those for which no hunting is proposed, they could go in the direction Mr. Labrie has suggested and create an enlarged no-hunting area or leave it as is.

Commissioner Perry questioned what the Commission would be permitted to do, short of sub-dividing those parcels.

Paul Labrie, 30 Beebe Lane

Remarked, in his mind, he does not want to say restrict hunting. The hunters have been there for a long period of time. He would like a more common-sense approach to keeping a little bit of peace in the neighborhood.

Commissioner Perry stated agreement noting the Commission has no enforcement capability.

The Commission spoke of the need for residents to be willing to raise a hand and wait for police officers to arrive when witnessing unpermitted behavior.

Commissioner Tenhave commented you can't stop illegal activities when it comes to hunting. For example, you are not permitted to shoot over a trail or within X amount of distance of a trail. Enacting laws that reinforce laws that are already in place is probably not a path the Commission would go down. It is an enforcement issue.

Commissioner Perry requested residents continue to contact the Police when witnessing such activity.

Asked about the parcels that are categorized as “Hours Restricted”, Commissioner Tenhave stated them to be Wildcat Falls and Riverside Drive. Most of the homes around that area are within the 300’ buffer. Because of the proximity to the neighborhood, restricting the hours was to keep bad behavior from going on in people’s backyards. Councilor Albert questioned, and was informed those are the only two properties being proposed with this restriction at this time.

Jeff Hoye, 7 Tomahawk Drive

Questioned the “all” category stating his impression there was the addition of all motorized vehicles. He recognized it as a change to the current rules.

Commissioner Tenhave noted it expands the no motorized onto more parcels than currently in the Chapter. Goes to all parcels. It is technically all right now, but there are only 6 parcels included in the current Ordinance.

Mr. Hoye stated his desire was to highlight that is an expansion of the restrictions on the Town’s properties. Asked for the rationale behind the recommendation, Commissioner Tenhave responded currently motorized use can occur on a number of the trails at Grater Woods (but not all). The HHNP has a provision to allow motorized use, but does not currently. When that was put together, and agreed to by the Town Council, it required there be a club to help oversee and organize it. No club was ever developed. With regard to Grater Woods, there are some trails that allow motorized uses, except for the school district property, which has a Deed restriction on it. For a while there was a club that had stepped up and said they wanted to participate and help maintain the trails (Right Riders). However, after a few meetings and helping on a few projects, participation stopped.

The thought was, until there is a responsible club that will help with the maintenance of those trails, it would be restricted altogether. It was noted the Town Charter/Ordinance process is addressed by the Town Council. If a club were to step up, although the process would take a few months from start to finish, that rule can be changed.

Mr. Hoye commented it sounds like in that vacuum the Commission is taking that responsibility of restricting it. Commissioner Tenhave agreed noting what the Commission has found is that the volunteers who are working on those trails have stated they don’t want to work on trails that are being beat up by motorized use.

Commissioner Boisvert added what also occurs is motorized users utilizing those trails to access areas where motorized use is prohibited/not authorized. Asked, Commissioner Perry stated it to be a regular occurrence. There are those who enjoy and utilize the trails as intended and others who do not. He spoke of the maintenance that is being done to support the trails, and provided the example of areas where there are no trails, and motorized users squeezing through and entering wetlands. The area becomes ripped up, creating the need to hire someone to bring in a bulldozer to place a rock to close off a little space that should not have been gone through in the first place. It is a regular occurrence.

Mr. Hoye questioned the amount of money that remains in the fund for maintenance, and if the problems could just be addressed as they come up. Commissioner Perry responded that is what is being done. Mr. Hoye questioned why they are throwing away everybody for a few bad apples. Commissioner Tenhave

remarked if the Commission could get enough of the users of that use to participate in the maintenance it would view it differently.

Mr. Hoyer stated he is not pleased with the direction.

Asked if he had suggestions or recommendations to address the need, Mr. Hoyer suggested appropriate education of users similar to the hunting issues.

Councilor Albert spoke of the OHRV park by West Road. He noted there had been an area designated, but because the club did not want to maintain it, it didn't work out. At the time, he didn't think it was a bad idea; it gave people who wanted to drive OHRVs the opportunity to do it, but there were people that pressed the boundaries and no interest in forming a group to handle it. He cannot imagine an area like the HHNP having OHRV activity.

Mr. Hoyer stated agreement and noted there are other properties that have further restrictions. Grater Woods is one that still allows for that use. The change in the Ordinance would make it so that no areas permit that use.

Councilor Albert reiterated nothing is written in stone. Knowing the members of the Commission as well as the Council, he is of the belief, if at some point in time, a group came forward wanting to take on that responsibility and keep that area, it could be revisited.

Vice Chair Perkins declared the Public Hearing closed at 7:41 p.m.

APPOINTMENTS - None

NEW BUSINESS

1. 49th Annual NHACC Meeting & Conference

The 49th Annual New Hampshire Association of Conservation Commissions (NHACC) Conference is scheduled for Saturday, November 2nd at the Pembroke Academy, 209 Academy Road, Pembroke, NH. Registration begins at 8:00 a.m.

Those wishing to participate must sign up before October 19th for the early bird registration rate.

MOTION BY VICE CHAIR PERKINS TO APPROVE THE EXPENDITURE OF FUNDS TO COVER THE COST OF ATTENDANCE AT THE NHACC CONFERENCE FOR ALL MEMBERS WISHING TO ATTEND. SOURCE OF FUNDING IS THE TRAINING LINE IN THE TOWN BUDGET

MOTION SECONDED BY COMMISSIONER ROSATI

MOTION CARRIED

7-0-0

2. 2019 Tree Farm status

Vice Chair Perkins spoke of the level of commitment required, and how, when last discussed, the Commission felt the necessary bandwidth did not exist. Commissioner Perry commented it has seemingly become a membership that requires quite a lot of paperwork on the back side. With only 2-3 properties

remaining in Town with that status, they are not being managed accordingly. He stated his opinion the signs should be taken down. Commissioner Tenhave spoke of the activities that need to be done to maintain that status. It requires work. There needs to be a forestry plan that is acted upon, inventories, etc. If there is a member of the Commission who is willing and able to take that on and make it part of their responsibility, then he would support staying within the program.

Commissioner Perry stated the Commission owns a few parcels as does the Town.

Asked about the last time tree farming was done on any of the properties, Commissioner Perry stated the Trustees of the Trust Fund did their property, and then the school did an area where Baboosic and South Baboosic Lake Road meet. That was 4-5 years ago. Commissioner Tenhave stated his belief the Commission has not done any of its own properties in approx. 10 years. The activities can continue, it is rather a matter of not having to continue with the requirements to remain certified. Commissioner Perry noted in the past there were businesses like Home Depot who would only buy wood from certified tree farms, etc. When the initial project was done at Grater Woods part of it was through a tree farm grant, and the revenue received for the lumber was worth more because it was a certified tree farm, would go to a certified retailer, etc. That benefit no longer exists. It has been replaced with the requirements of management plans, etc. Instead of a benefit it became a burden.

Vice Chair Perkins commented it seems there is little upside to keeping it up. Commissioner Perry remarked he has not been able to find one.

There is a fee for participation in the tree farm program.

The consensus of the Commission was to continue along the path of non-participation.

3. 2019 Annual LCIP Survey of Wasserman Conservation Area

Commissioner Tenhave stated when the Town accepted the funds for the Wasserman Conservation Area to be purchased, it was part of a program called LCIP (now LCHIP). There is the requirement for an annual survey of the property and reporting to a department within the State. The State also goes out to conduct reviews of certain properties under the program. They did monitor Wasserman approx. 3 years ago, found an issue, and alerted the Commission to it.

Once a year the Commission has to walk the property. The State prefers photos be taken and provided.

Commissioner Rosati volunteered to put the report together. The walk and reporting are required to take place prior to December 31st.

The walk was scheduled for Saturday, November 9, 2019 beginning at 9:00 a.m. at the resident lot.

4. Review draft of 2020 meeting schedule

It was suggested the July 20th meeting be identified as the Annual Meeting.

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

OLD BUSINESS - None

OTHER BUSINESS

1. Discussion on communications or correspondence received concerning regulated Commission activities and any issues concerning Commission managed lands.
2. Sub-Committee Updates

Wildcat Falls

Commissioner Rosati spoke of an email received questioning if walking on the trail is free of cost and what the hours are. She responded noting there is no cost and the hours are dawn to dusk. The response she then received was there are two tour buses. She reached out to Commissioner Tenhave, and through their discussion determined Wildcat Falls is not the right place for that. When asked where they could go, she suggested Mine Falls Park in Nashua, and that they reach out to the Police Department to ascertain where parking could occur. It is two tour buses (out of Boston) full of Italian tourists that are going to the opera in Boston. They are here for a few days. They will be visiting the outlets and then wanted to go somewhere where they could experience New Hampshire.

Horse Hill Nature Preserve

Commissioner Swisher spoke of a meeting conducted on September 30th. Don Laliberte requested mention be made of the colorful discussion on Other Power Drive Mobility Devices, and wished to inform the Commission other organizations handle rules for the properties a little differently. Specifically, he wished to draw the Commission's attention to the Forest Service rules, e.g., their travel management rule concerning E-Bikes.

The next meeting is scheduled for December 9th at 6:30 p.m. in the Merrimack Memorial Conference Room.

Commissioner Rosati spoke of a student who is conducting an historical project. That student contacted the Historical Society, and was able to come back to Merrimack for a weekend and spend a very productive afternoon going through some of their paperwork. She will reach out and request a copy of his paper.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. [September 16, 2019](#)

The following amendments were offered:

- Page 1, Line 16; Commissioner Starr was not in attendance
- Page 2, Line 49; replace "October 4th" with "October 9th"
- Page 3, Line 43; replace "a" with "an"
- Page 4, Line 32; replace "parenthesis" with "parentheses"

MOTION BY COUNCILOR ALBERT TO ACCEPT, AS AMENDED
MOTION SECONDED BY COMMISSIONER TENHAVE
MOTION CARRIED
7-0-0

PUBLIC COMMENT – None

COMMISSIONER COMMENTS

Commissioner Tenhave stated the next step in the update of Chapter 111 is to bring it to Town staff to gather input. Noting comments received, he questioned the will of the Commission relative to whether there is a desire to seek out additional input prior to moving the process forward to Town staff or let things run in parallel. Councilor Albert had mentioned he might want to get a legal opinion on restricted areas.

Councilor Albert commented he is still thinking about restricted hours and whether the Sklar Waterfront Property should be included. He spoke of continued efforts regarding vehicles, etc., and suggested the restriction might assist police in enforcement.

Commissioner Tenhave noted the adjoining Town parcel that contains the boat launch. Councilor Albert noted Town park rules are sunrise to sunset. Chapter 111 does not consider the property a Town park. Commissioner Boisvert remarked treating those parcels separately defeats the purpose. Commissioner Perry noted the discussion around managing the parcels as one, which took place with the Town Council when the purchase was considered. Councilor Albert suggested the issue be raised with the Town Council. Commissioner Glenn stated her belief that hunting is permitted on the Town side and not on the Conservation side (prohibited by Deed).

Commissioner Tenhave questioned where the model plane club, Flying Eagles, conducts their activities. Commissioner Perry stated his belief the area used might be both Patterson's property and the Town parcel.

Commissioner Swisher spoke of memories of Hornpout fishing in the Merrimack River in the middle of the night, which is an activity that would be prohibited were the restriction in place.

Commissioner Perry commented the Commission has spoken of restrictions of dawn to dusk, but has also spoken of the ability for a registered event to occur, with Town Council permission.

The suggestion was made that the Flying Eagles could be called out as an exception. Asked if that would close access to the boat ramp, Commissioner Tenhave stated it would.

Commissioner Glenn commented were the restricted hours to be placed on the parcel, a change could occur once the OHRV issue is under control. Commissioner Perry stated the restriction could be place on the Sklar property alone. It would be difficult to police.

Commissioner Swisher noted what is aimed for by including Sklar in Chapter 111 is to give teeth to enforcement.

Councilor Albert remarked it sounds as if it should be left as proposed.

Councilor Albert spoke of the public comment received. Although he understands the frustrations expressed regarding police response, it is necessary to keep in mind there are only so many police officers on the street, and they have to respond in a triage manner with what is happening. He spoke of his time as a police supervisor, and how he could not justify having an officer walking around half a mile into the woods and have an incident occur where he/she was needed elsewhere. He suggested the Commission research how the Conservation Officer position is working in Londonderry.

Commissioner Boisvert questioned if such a position would be brought up during Annual Meeting. Commissioner Tenhave stated the need for a position to be discussed during the Town Council budget process. Councilor Albert questioned if such a position could be funded through the Commission. Commissioner Boisvert questioned if it could be put before the citizenry as a Town position; special warrant article.

Commissioner Swisher spoke of it being Fish & Game's responsibility to police the hunting issue. It is understood they are spread really thin.

Councilor Albert stated he could bring the suggestion of a Conservation Officer forward to the Town Manager and Chief of Police. He spoke of costs that would be involved in both salary and equipment.

Were there the desire for a special warrant article, the cost would have to be understood, and the article submitted by the end of January.

Commissioner Tenhave stated his opinion it would be best to have the Town Council agreeable to the concept. There is also the need to review the RSA that grants the use of the fund to see if that would be an appropriate use. Councilor Albert will bring the discussion forward.

Commissioner Tenhave questioned the will of the Commission, and was informed of the desire to move Chapter 111 forward to Town staff for input.

Commissioner Tenhave noted he would be absent from the 1st meeting in November.

Commissioner Perry noted hunting season is upon us, and reminded users of the trails to be mindful.

Commissioner Rosati expressed sympathy to the family of Jackie Flood. A Celebration of Life is planned for Thursday night from 4:00 - 8:00 p.m. at the Bedford Village Inn.

ADJOURNMENT

MOTION BY COMMISSIONER TENHAVE TO ADJOURN

MOTION SECONDED BY COMMISSIONER PERRY

MOTION CARRIED

7-0-0

The October 7, 2019 meeting of the Merrimack Conservation Commission was adjourned at 8:33 p.m.

Submitted by Dawn MacMillan