



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION DECEMBER 21, 2015 MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, December 21, 2015 at 6:38 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Michael Boisvert
Cynthia Glenn
Gage Perry
Councilor Jody Vaillancourt

Members of the Commission Absent:

Also in Attendance: Adele Fiorillo, Environmental Permit Lead, Normandeau Associates

Barry Duff, Principal Project Manager at Kinder Morgan
Mike Lennon, Right of Way Coordinator, Northeast Land

Services

Debra Huffman, Horse Hill Nature Preserve Sub-Committee

Chairman Tenhave reminded the Commission and viewing audience the Commission meets once in the month of January on the 11th.

The Commission currently has open positions; 1 full-time and 3 alternate. Individuals interested in serving on the Commission should contact Becky Thompson in the Town Manager's Office.

PUBLIC COMMENT - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS - None

OLD BUSINESS

1. **Northeast Energy Direct (NED) Pipeline**

Commission to have a general discussion on the NED project and any immediate actions it may wish to take. This discussion will include:

- A meeting with representatives of Kinder Morgan related to the survey agreement for Commission parcel

2B-358-1. Kinder Morgan has requested the Commission agree to and sign a survey agreement.

Mike Lennon, Right-of-Way Coordinator, Northeast Land Services noted their standard survey permission form was submitted, which included some hold harmless language and a summary of the types of surveys they would like to conduct.

Barry Duff, Principal Project Manager, Kinder Morgan, introduced himself as the Project Manager for the main line in New Hampshire.

Adele Fiorillo, introduced herself as the environmental consultant on the project.

Chairman Tenhave noted members of the Commission received a copy of the information provided regarding the request. The land was donated to the Commission in 2013. The family that made the donation wanted very particular restrictions placed on the property. After negotiations and discussion, both parties arrived at what is now formally written in the Deed.

Mr. Lennon noted he has reviewed the Deed for that property and surrounding parcels.

Chairman Tenhave opened the floor to questions from the Commission.

Commissioner Perry stated his belief the original intent had been to look to adopt the survey agreement that was proposed by the Town. Chairman Tenhave stated that to be an option. Councilor Vaillancourt noted the Town does not have a signed survey agreement with Kinder Morgan.

Commissioner Boisvert remarked the Deed language seems to restrict precisely what is being requested, e.g., restricts those types of structures from being placed on the property. He stated the Commission has to abide by the language of the Deed, and it is the responsibility of the Commission to protect land such as this.

Mr. Lennon reiterated they have reviewed the Deed, and understand there are some layers that, if and when Kinder Morgan were to move forward with the route as filed with the Federal Energy Regulatory Commission (FERC), they would have to go through for acquisition of an easement. At this point in time, they are not making any request for an easement. The request is specific to survey activity to explore the viability on that site or the potential of any co-location along that route through Continental Boulevard. Environmental studies would extend onto the property itself. He remarked he did not note any language in the Deed preventing survey activities.

Commissioner Boisvert stated the survey activities are for a purpose that is restricted in the Deed. Councilor Vaillancourt questioned the Attorney General Department of Justice letter to the FERC dated October 9, 2015. She noted the language around charitable trusts, and stated her belief this would fall into that category, e.g., that this is a charitable trust the Commission is responsible for based on the Deed and the intentions of the donor. She reviewed the different types of amendments should the Commission wish to amend the Deed so that this type of activity could be allowed. The literature identified the different risks and processes. She stated her belief under the definitions it would appear this would be considered a high-risk amendment. There would be a good many hoops to jump through if that were the intent of the Commission.

Councilor Vaillancourt noted the Attorney General has to review any such requests, and the language indicates rarely, if ever, do they grant these types of amendments. She stated her belief the precedent and law is there. The survey in and of itself, to her, is no different than allowing them to construct the pipeline on the property. She questioned why the Commission would allow permission to survey. Commissioner Glenn stated agreement, and questioned if anyone has contacted the New Hampshire Charitable Trust as was stated in the letter.

Mr. Lennon responded they are in the process of finishing up the complete title work. They have done it for most of the route; however, there have been several changes in Merrimack over the past weeks and months. That complete title package is not done at this point in time. It will be shortly, and at that point in time all of the appropriate agencies will receive copies. Commissioner Glenn restated her opinion the request to survey the property should be denied.

Chairman Tenhave commented on having gone through the Deed and reviewed the literature, and stated his opinion the way it is written, the Commission does not have the ability to provide for a pipeline to go through that parcel. The way he reads the language, the Commission would have to try to prevent a pipeline from going through that parcel. If not, the Attorney General could hold the Commission legally accountable on the grounds it was not fulfilling its fiduciary responsibility. Although he understands the survey is a different activity, the intent of conducting it is to place the pipeline on the property. He stated he does not believe it worthwhile, at this point, to move forward with the survey.

Mr. Lennon remarked they respect the consensus of the Commission. He noted there have been many other land owners along the project who have cited similar reasons for not to allow direct access, but have been willing to share knowledge of the property, which may not be available to them publicly. Mr. Lennon remarked if full access is not granted to the survey crews, and there are features on the parcel; environmental concerns the Commission may have, etc., that information would be appreciated to help educate them so that they can continue to design and refine the route to minimize impacts.

Chairman Tenhave stated the entire border of the property is fenced. The State put most of that in when they did Continental Boulevard. What can likely be found in the plans for Continental Boulevard is a number of culverts (2) that go under Continental Boulevard and drain into the Commission's parcel. One comes from Town owned land on the opposite side, which has a culvert across Naticook Extension, which leads into private property that is all wet area. That would be to the west of where Naticook Road dumps into Continental Boulevard (closer to Pennichuck Square). There is a much smaller one that is further east. It is mostly standing water all the time. The only dry land is a few patches where there has been enough vegetation to create little islands. It has all of the classic vegetation for wetlands. It was noted by the previous owners of the property that there is quite a bird population on the property.

The only dry spots are right along Continental Boulevard. There is kind of a swale coming off Continental Boulevard that helps channel the water, which then dumps into the property as opposed to just running straight across the road and sheeting in. That swale provides treatment of any of the liquids or whatever that would be on the road surface before it enters the water. That swale is an important feature that was built into Continental Boulevard and the Commission property. Chairman Tenhave commented he thinks that is probably part of the State land, but along the border of the Commission property.

Chairman Tenhave stated the consensus to be not to move forward with the survey agreement in any form.

Mr. Lennon commented he picked up on the potential, in the future as the project evolves, for the Commission to evaluate that position as they go through some of the steps with the agencies listed in the referenced letter.

Mr. Duff remarked part of why they want to get survey access is to identify characteristics of the property, e.g., certain habitats, species, etc. If they found it to be detrimental they would relocate. The end result is potentially to put the pipeline through there, but it is also to gather information. There have been times where they have found cultural resources on a site, which has caused them to have to move. It is a fact finding effort with the survey effort to try to figure out whether this is the best route or if there is a better alternative.

Chairman Tenhave noted the New Hampshire Department of Transportation (NH DOT) ran into a number of cultural issues when they were putting in the roadway. He remarked he understands the reason for the request; however, he is concerned with putting any kind of a shovel in the ground on that property. He commented the Commission has not owned the property long enough to conduct its own detailed analysis. Mr. Duff responded one advantage is that they would share data with the Commission.

Commissioner Perry remarked like all of the Commission properties, he wants people on it, and the data is something the Commission wants. However, some of the activities, e.g., trenching and digging, he is concerned with. He commented even at this time of year the property is wet. The Deed language leads him to believe the Commission would not be allowed to permit such activity on that property.

**MOTION BY COUNCILOR VAILLANCOURT THAT THE COMMISSION DENY PERMISSION TO KINDER MORGAN/TENNESSEE GAS PIPELINE TO SURVEY PARCEL 2B-358-1
MOTION SECONDED BY COMMISSIONER GLENN**

ON THE QUESTION

Commissioner Glenn informed the Commission she had a form that could be completed and signed denying permission to survey. Chairman Tenhave stated Commissioners had not had the opportunity to review the language of the form, and suggested the Commission could follow up with that at a later time.

MOTION CARRIED

6-0-0

Commissioner Glenn requested Kinder Morgan make any contractors aware that they do not have permission to be on the property. Mr. Lennon responded he can assure the Commission they will not have any contractors on that parcel or any other parcel without direct permission from the landowner.

- Wetland mitigation process. Commission to discuss potential projects that might be possible for the compensatory mitigation Kinder Morgan may have to do if both FERC and the New Hampshire Site Evaluation Committee (NH SEC) approve NED.

Chairman Tenhave questioned if Commissioners had any thoughts on potential projects. He stated a desire to come to closure on either a list that can be provided or a decision not to provide any information by the January timeframe.

Commissioner Boisvert commented timing has a lot to do with it. He spoke of South Grater Road, which the Commission recently walked, and noted that has potential, but it is a timing issue. Chairman Tenhave remarked if Kinder Morgan gets the timetable they are pursuing, construction activity would not begin until 2017. The New Hampshire Department of Environmental Services (NHDES) would like all projects done early in any sort of construction phase to ensure they are completed. The Commission would be looking at timing for a project in the spring of 2017.

Councilor Vaillancourt informed the viewing audience any project that will impact wetlands is required to apply to the NHDES. The developer files for mitigation, which means the developer has to pay money into the Aquatic Resource Mitigation (ARM) Fund. That money can go to any project in the State of New Hampshire. If the Commission had wetlands that were impacted in Merrimack, and the developer paid into this fund, that money could go to a mitigation project that is not located in Merrimack. What the Commission is looking to do is identify mitigation that could take place in Merrimack. That action is not meant to indicate the Commission supports the proposed pipeline. The intent is to try and guarantee, by being proactive; that any mitigation money that goes into this fund stays in Merrimack for Merrimack projects.

Chairman Tenhave stated when a project will have a permanent wetland impact,; after filing a Dredge & Fill Permit Application with NHDES, there is the option of working with the Conservation Commission to suggest local projects with priority given to the same watershed where the impact occurs, if at all possible. Those local projects can be the purchase of upland buffers, which would be the high land next to the wetland that was being disturbed or another area that is similar in the same watershed. They could do a wetland restoration project where they repair a wetland area, hopefully within the same watershed, and they can also do a wetland creation project, which is very rarely done as creating wetlands is a science in and of itself, and is not always successful. The last option is, if they can't find a project within the local municipality that can meet the requirements, they can put money in this fund that is then available for everyone in the State to apply for.

Chairman Tenhave commented some see that as an easy way out to simply put money into the ARM Fund and let the State manage it. New Hampshire DES requires that the developer show that they were not able to find a local project before they will allow them to put money in that fund. What the Commission has been advocating for is sufficient time to identify a local project so that any mitigation dollars do not go into that fund.

Chairman Tenhave remarked, in the past few years, the Commission has run across this in a few different ways. He provided a few examples of mitigation projects the most recent being replacement of the Manchester Street Bridge. The bridge was being elongated, widened, etc. The project had a permanent wetland impact. New Hampshire DES has a formula to determine the level of mitigation required for any given scenario, e.g., payment to the ARM Fund, upland purchase, etc. Typically the formula is 10/1 or 15/1; if you are going to impact 1 acre you have to do 10 or 15 acres of another activity. For the Manchester Street Bridge project mitigation as in the form of a wetland restoration project. That

mitigation resulted in restoration of the Red Maple Trail. The Commission rebuilt the trail, stopped a lot of the water and the damage that was occurring, an emergency lane was created, and a good deal of drainage was addressed along that trail area. They also ruled out motorized use so there couldn't be contaminants going into the Red Maple Swamp, which is a very unique habitat that the State wants to preserve and protect. Chairman Tenhave stated his belief when the formulas were done there was the need for a project in the \$20,000 - \$30,000 range, and approximately \$35,000 was expended on that project.

Chairman Tenhave stated, at the last meeting, the estimate provided for permanent impact as a result of the proposed NED pipeline, was stated as 1 - 1.5 acres. The ARM Fund calculation comes out to somewhere in the range of \$300,000. There is the need to pay a penalty if not doing a local project, which is what NHDES uses for administrative costs to divvy the money back out. He commented the money would allow the Commission to purchase a reasonable parcel or have a project size to accomplish something of consequence. If the pipeline were to come to fruition and the mitigation dollars they would have to provide is of a sizable amount, it would allow the Commission to retain more money in its own fund for other projects.

Commissioner Boisvert commented the Commission would likely be tied to private discussions with regard to land purchases. Vice Chairman Caron noted there are some properties on the Commission's radar. Chairman Tenhave commented the Commission has been very clear that there are conservation focus areas in Town; one around the Horse Hill Nature Preserve (HHNP), one around Grater Woods, and then along the watersheds where the Commission is actively looking to purchase parcels. Because of their unique characteristics, he believes a case could be made for each of those parcels.

Councilor Vaillancourt stated her belief land purchase would be a good use for that sum of money. She questioned if the Commission were to consider the purchase of a piece of land as a mitigation project, how far along the process would it have to be. She also questioned how the Commission would move forward if negotiations were underway for a land purchase and the proposed pipeline project were not to come to fruition resulting in the mitigation dollars not being available. Chairman Tenhave responded his recollection of the Grater Woods project was that it had to be all the way to Purchase & Sales Agreement. New Hampshire DES was involved before the Purchase & Sales was signed. The input provided was if a Purchase & Sales included these sorts of covenants in the Deed, they would be interested in that as mitigation. They would do a value check on the land to ensure it had the appropriate value in dollars as well as conservation purposes.

Councilor Vaillancourt questioned if the Commission would have to be prepared to purchase property with monies from the Conservation Fund. Chairman Tenhave remarked with the Grater Woods project the Outlet Malls purchased the parcel from the private land owner and immediately donated it to the Conservation Commission. Within days or hours the land changed hands twice. The Mall had a Purchase & Sales with the private landowner and the Commission also had a Purchase & Sales with the Mall to acquire the land once they had ownership of it. He commented you can be sure the Commission and its former Chairman were very involved with the private landowner to pull it all off. It is not something that happens in a matter of weeks. There was the need to also ensure the Town Council was going to approve the Purchase & Sales. If a mitigation project occurs on a property already owned by the Commission it is totally within the control of the Commission.

Chairman Tenhave suggested the reconstruction of South Grater Road to be a project the Commission could hold off on doing. The Stewardship Plan for Grater Woods talks about gating Grater Woods in two places along South Grater Road. The reason for doing that is it passes through what is now a beaver pond most of the time. It is being chewed up by four-wheelers and everything else. It is inappropriate to have those kinds of motorized vehicles going right through a pond. It would be more appropriate to take that pathway, which is a vital emergency access road, reroute it on high ground, and repair some of the erosion that has gone on as a result of vehicles going through the area. A project of that caliber would likely be in the same price range as the Red Maple Trail project. Chairman Tenhave stated his belief that would be a very appropriate thing to do, but prior to that occurring there is the need to close the road down, which is an activity the Commission has committed to doing.

Chairman Tenhave commented until the FERC identifies the route, you cannot calculate the exact size of mitigation. Councilor Vaillancourt questioned if there would be a single project or several. Commissioner Perry stated it is a value equation; the Commission needs to either identify enough projects to reach the level of mitigation required or the balance would go into the ARM Fund. Chairman Tenhave stated

wetland rules allow for a partial payment into the ARM Fund and a project to be done if that is all the Commission can work with a developer to get done. Chairman Tenhave commented on the amount of paperwork that has to be filed with NHDES when proposing a project.

Commissioner Perry commented Dan Cyr did walk South Grater Road and was formulating ideas. Although unsure how far along he got with an actual plan to do that road, he suggested Bay State Forestry could be contacted to identify where they are, and asked to bring that plan back to the forefront. Chairman Tenhave commented originally the Commission was talking about making it accessible for forestry purposes. He stated his opinion there is the need to have good western safety access to that parcel (large enough for a woods truck).

Chairman Tenhave suggested another project may be the invasives problem at the Wasserman Conservation Area. There are 10 acres of Burning Bush. Commissioner Perry commented there is so much of it and it is so large when you first happen upon it, you don't know what it is, and then you realize it is Burning Bush. Vice Chairman Caron stated the majority of that is in the Greens Pond Fish & Game Club.

When asked, Chairman Tenhave stated the intent for this meeting was to determine if there were any projects a member of the Commission was considering that would require follow-up before the Commission's January 11th meeting. He commented, although he is not aware of the exact rules, he believes there to be a window. They were pushing for the Commission to do something or else they would go with the ARM Fund. However, the wetland rules state that they have to show to NHDES that they tried to work with the Commission and were not successful. He stated the minutes of the Commission's meetings will tell anyone that the Commission's desire is to work with them and create projects.

Commissioner Perry spoke of trail development such as the environmental trail being discussed to go around the pond and the Bambi Trail. Those trails and bridges will be expensive and labor intensive. He questioned if the Chairman believed those types of projects would be within the realm. Chairman Tenhave was unclear whether the Environmental Trail would fit, but believes the Bambi Trail would. Vice Chairman Caron noted it would be a restoration project.

Chairman Tenhave suggested the Commission brainstorm some ideas. He commented he is hesitant to talk about a few land opportunities as they are simply not mature enough. Vice Chairman Caron stated the answer, if anyone is asking the question, is yes we have projects. Chairman Tenhave stated the item would be placed on the agenda for the January 11th meeting. He commented, at the last meeting, he had stated the Commission would try to have something identified for the January meeting, but certainly by the February meeting.

- Whether the Commission should petition for intervener status at this time and how best to do that. See: <http://www.ferc.gov/resources/guides/how-to/intervene.asp>
<http://www.ferc.gov/resources/guides/citz-guide-gas.pdf>

Chairman Tenhave spoke of the January 6th deadline for submission of a Motion to Intervene. Commissioner Glenn commented on the Town having filed earlier in the day. Chairman Tenhave questioned the will of the Commission with regard to authorizing him to draft a letter, on behalf of the Commission, to intervene stating two items; the proposed route goes right through a Commission property and by RSA 36-A the Commission is responsible for the water resources in the Town, and this pipeline, as proposed would go right through important water resources in our Town.

**MOTION BY COMMISSIONER PERRY TO DESIGNATE THE CHAIRMAN AS THE LETTER WRITER FOR THE MOTION TO INTERVENE ON BEHALF OF THE COMMISSION
MOTION SECONDED BY COMMISSIONER BOISVERT**

ON THE QUESTION

Councilor Vaillancourt commented all that is needed to cite for intervener status is one issue that identifies the Commission as being impacted by the proposed pipeline. She reminded the Commission the deadline to file is January 6th. The Commission will not meet again before that time.

The consensus of the Commission was that the two reasons stated would be sufficient.

MOTION CARRIED

6-0-0

Commissioner Glenn noted a workshop scheduled for January 2nd in Rindge, NH at which people could log on right there and file intervener status as they are going over the process.

Councilor Vaillancourt informed the Commission the Town Council unanimously voted to file a Motion to Intervene. The letter is available for everybody to see.

Kinder Morgan has also submitted a Right-of-Way Permit request to the Town. John Proulx, Land Agent, Tennessee Gas Pipeline, in a phone conversation with the Town Manager, indicated the intent is to take photographs. In accordance with State RSA, Kinder Morgan must inform the Town where they would be doing work and provide details on the scope of work. According to the Town's counsel there is no requirement for a survey agreement for a Right-of-Way permit but it is necessary for the permit application to be complete. Once complete, they have the legal right to conduct the work outlined in the permit.

Chairman Tenhave questioned if that means, if his parcel were one they wanted to be on they could come to the Town's right-of-way and stand on the edge of his property and take pictures, scratch in the dirt, etc. Councilor Vaillancourt stated her belief they are not supposed to be scratching in the dirt, but there is nothing to stop them from taking pictures. She commented it is an interesting question, and one for which she did not have a clear answer. Chairman Tenhave commented the right-of-way is not always clearly defined. Commissioner Glenn questioned if the permit application is a means of getting around survey agreements. Chairman Tenhave questioned if the photos would be taken of the right-of-way area or if they would be standing in the right-of-way and taking photographs of other property.

Councilor Vaillancourt stated Jeff Strong, Public Works Department, Highway Division, has indicated in order for him to consider issuance of a right-of-way permit he would require insurance in the prescribed amounts indicating the Town as additional insured and a detailed plan of their proposed activity to include specific streets and location of same areas to be surveyed.

- Update on getting a law firm to represent the Commission.

Commissioner Glenn stated the attorney she was hoping to bring to the discussion had fallen through. Councilor Vaillancourt questioned if the one that was recommended by counsel has a conflict, and was informed that is the case. Chairman Tenhave noted he spoke with the Town's attorney to see if she had any other recommendations to which she responded none beyond those which Commissioner Glenn had already identified. She did, however, note that one of the attorneys Commissioner Glenn had spoken of would be well qualified. Commissioner Glenn stated her intent to have solid candidates available for consideration at the Commission's January meeting.

2. Horse Hill Nature Preserve Parking Lot Expansion

Commission to further discuss and potentially take action on a proposed parking lot expansion project for the Amherst Road Parking Lot. A plan for a 62-lot parking area will be discussed along with the original proposals from our last meeting.

Chairman Tenhave commented at this point the Commission has a map that depicts the current situation and two others that depict three alternatives, which allow for 42 spaces, 58 spaces, and 62 spaces in differing configurations. Kyle Fox, Deputy Director, Public Works Division, was able to create a 62-space configuration without going any wider, just deeper into the parcel. The 62-space lot configuration remains well outside of the no disturb buffer. The 62-space configuration includes the required three (3) handicap spaces, which are located directly behind the kiosk. That would prevent the parking lot from growing wider, which keeps the headlights out of the Lastowka home.

Chairman Tenhave informed the Commission he met with Mr. Lastowka earlier in the week, showed him the photo, and he was delighted there was an option that kept the lot from becoming wider and felt if that could be done he would be very happy. He also said he would be happy to assist in locating the water line from the well. He said, when he has the chance, he wants to write up the history of that well.

Chairman Tenhave noted the Commission was also provided with information pertaining to cost. The pricing comes out of the New Hampshire Department of Transportation (NH DOT) price book. Actual costs are not yet known.

Chairman Tenhave questioned the will of the Commission. Commissioner Boisvert commented on consideration, in the future, of utilizing leftover re-ground asphalt. Chairman Tenhave stated that option was not costed. It is known that cost would be somewhere in the middle of grading and paving, and believed it would be much closer to the gravel grading cost.

Chairman Tenhave stated his opinion expending a cost in the six figure range on a parking lot is something he cannot see doing. Commissioner Perry commented that price equates slightly over \$2,000/space. He suggested the 42-space lot, which would cut off approx. 16 spaces on the end, which is where the problem of lights shining into the neighboring property would have come to be. He stated that to be an acceptable option and the least expensive. That number of spaces would certainly support a great deal more activity. Commissioner Perry commented Vice Chairman Caron brought up a great point at the last meeting when he spoke of users of the lot not knowing there are other places to park to get into this property. It may be that the solution is as simple as educating users of the park through a posting on the kiosk, etc.

When asked for her opinion, Ms. Huffman responded when they counted up the number of spaces being utilized previously, they had 42. She does not believe that to be sufficient. It is true there is additional parking elsewhere, however, she would recommend directing bikers to other locations as an alternate location does not work for walkers. She noted Newton Coryell, Chairman, Horse Hill Nature Preserve Sub-Committee, had brought up the suggestion of utilizing the re-ground asphalt, which is something she agrees with completely. She likes the idea of clearing out enough space for now, grubbing it, have a dirt parking lot, and see how it goes, but have adequate space to park people. Over time, when there is a road project being ground up, re-ground asphalt could be added at that time. She does not believe it sensible to go to a lot of expense to do only 42 spots, and stated her preference to clear it and let it be dirt for a while. But, clear it large enough to accommodate what they want there going forward.

Commissioner Boisvert remarked it would make sense to have it ready for the re-ground asphalt. Chairman Tenhave noted Deputy Director Fox was unsure if there would be a project this coming year. Ms. Huffman stated that could wait several years.

Chairman Tenhave noted the next most expensive aspect is that of the gravel. Ms. Huffman stated 12" of crushed gravel is what you need if you are going to pavement. She questioned what would be required if the decision were to go with re-ground asphalt, and her belief 12" of gravel is not necessary. Commissioner Tenhave stated 12" to be pretty standard. Ms. Huffman stated if the re-ground asphalt becomes available at some point that is when that choice would have to be made for the 12" of gravel. She commented if it were never to be paved or covered with re-ground asphalt, the area would never require 12" of gravel.

Commissioner Perry questioned if snow removal is done in the lot, and was told the Town plows the parking lot. Vice Chairman Caron commented with the larger estimate (62 spots) it is possible the amount of fill required is being underestimated. Commissioner Perry stated it is not intended for that area to be level. The intent is for a slope to direct water to the back. He added Deputy Director Fox has surveyed the area, and is very aware of what the slope is like. Commissioner Perry commented there is a lot of space around the HHNP to park. This particular area is small. Ms. Huffman questioned if walkers would be expected to park at Wasserman and walk over to the HHNP. She remarked a lot of people just want to do the little loops that have been created. Nice friendly loops have been created coming from that parking lot. Commissioner Perry suggested a lot of people simply don't understand those properties are connected.

Councilor Vaillancourt stated bicyclists do that. This particular entry point is the preferred entry point. She commented there must have been some consensus at some point along the road that we needed more space to have gone this far with this potential project. However, the \$135,000 price tag gave her heartburn. She stated her support for what Ms. Huffman has suggested, and her belief the two biggest concerns would be wetlands and abutters. If more space can be created, for a lot less money so that people can park, and not impact the wetlands or abutters, then she is of the belief it should be done.

Vice Chairman Caron stated a 42-space lot would double the number of spaces that currently exist. He spoke of having visited the lot when it was full and counting 19 cars. Cars were parked some 3' away from each other. With the re-ground asphalt, lines could be added. Ms. Huffman suggested eliminating the back 12 spaces resulting in a total of 50 spaces. When asked, she stated last they spoke Mr.

Roberge was fine with the latest map because it is the back of his property. She stated they would double-check with him to be sure.

Chairman Tenhave stated the Commission could put out a Request for Proposal (RFP) and a contract may not be awarded. Another option is to say any proposal over \$50,000 would not be awarded. When asked about the current surface, Vice Chairman Caron stated there is old re-ground asphalt that was not hot and rolled. Commissioner Perry remarked even if it is cleared and grubbed there is the need for some surface. It cannot be left just as dirt. It was suggested the 62 spaces may be able to be done for a cost in the area of \$35,000 if some of the aspects were not done at this time. Ms. Huffman reiterated if there is a need to reduce the cost it would be okay to eliminate the back 12 spaces and enlarge the lot to 50 spaces. Chairman Tenhave stated the RFP could be done for two different lot sizes, and a decision could be made based on cost.

MOTION BY COMMISSIONER BOISVERT THAT THE COMMISSION PUT OUT AN RFP FOR THE HORSE HILL NATURE PRESERVE PARKING LOT EXPANSION SEEKING TWO DIFFERENT COSTS/LOT SIZES WITH THE RESTRICTION THE EXISTING WIDTH NOT BE CHANGED, THAT THE MAXIMUM NUMBER OF SPACES BE 62, AND THAT IT BE MADE CLEAR A CONTRACT MAY NOT BE AWARDED

MOTION SECONDED BY COUNCILOR VAILLANCOURT

MOTION CARRIED

6-0-0

3. Horse Hill Nature Preserve Sub-Committee Charge

Commission to discuss and potentially take action on a proposed charge for the Sub-Committee.

Chairman Tenhave stated the draft includes the amendment requested; language addressing meeting attendance. Given the term is similar for full-time and alternate members, the sentence that addresses alternate member terms has been incorporated into the paragraph that addresses full-time member terms.

Ms. Huffman thanked the Commission for the amendment, and stated the proposed language covers what was requested. She commented, at the last meeting, there was a comment made that the Sub-Committee may have been experiencing attendance difficulties due to members not being aware of the location of meetings/that they hadn't been properly notified. She stated she found that to be very upsetting as that would be a significant breach of the public trust. She stated she has checked her email, and can state that to be absolutely untrue. She stated a desire to inform the public the HHNP Sub-Committee does not conduct meetings without inviting its members. She commented going back to the month of July, there was an issue when the Secretary changed over. In July it was not posted on the Town's website, which is something Town staff has to do. Although the meeting information was not posted to the website, all Sub-Committee members were invited days before with the date, time, and location of the meeting. When asked, she stated the meeting minutes always include the date of the next meeting. Commissioner Perry stated he could retrieve the information from there, and post it to the Commission's calendar as well. She noted, in the case of the January meeting, the Sub-Committee had previously scheduled it for January 11th, which is the date of the Commission meeting. Upon being advised of that, the meeting date was revised (January 25th), and a new notice was provided. She added, earlier in the day, the Chairman sent out a list of the meeting dates for all of 2016. Commissioner Glenn agreed to be responsible for placing those dates on the Commission's calendar.

MOTION BY COMMISSIONER PERRY TO ADOPT THE CHARGE FOR THE HORSE HILL NATURE PRESERVE SUB-COMMITTEE AS PRESENTED AND EFFECTIVE IMMEDIATELY

MOTION SECONDED BY COMMISSIONER GLENN

MOTION CARRIED

6-0-0

NEW BUSINESS

1. Bobcat Letter

Commission to discuss signing a letter to urge NH Fish and Game not to allow hunting or trapping of bobcats in NH.

Commissioner Glenn stated the New Hampshire Fish & Game Commissioners voted to go forward with rescinding the ban on hounding, trapping, and baiting Bobcats. One of the Biologists actually said "It is

an opportunity not an obligation.” She stated her opinion it is clear trophy hunting. They want to sell the pelt, particularly the stomach piece overseas for the fur. They are just starting to make a comeback. It is not yet a done deal; Commissioners have voted to move forward. However, there will be opportunities for public input through Public Hearings, etc. The Stoddard Conservation Commission drafted a letter, which it is seeking additional signatures to, stating it is not good conservation.

Commissioner Boisvert remarked he has no idea of what the population of Bobcat is in New Hampshire or how it is managed. However, it seems to him allowing hunting might be premature. He commented on never having seen a Bobcat in New Hampshire. Commissioner Glenn stated it was based on a study with the University of New Hampshire. She stated there to be no reason to start killing them except for trophies. Councilor Vaillancourt questioned if the Commission has any idea why this has now come up in front of the Stoddard Conservation Commission. Commissioner Glenn stated it to be the trappers. The Fish & Game Commission is appointed by the Governor, but to be on the Commission you have to have had hunting/trapping/fishing license for 5 out of the past 10 years. There isn't really anyone representing the wildlife or conservation. There is a very small population of trappers, and they have been pushing for this for years. She stated it is not truly known what the number of Bobcat is in New Hampshire. Commissioner Perry stated there is video of one in Mitchell Woods. The gentleman that captured it has been putting game cameras out there for at least 5 years. He has captured video of a Bobcat twice although it is believed to be the same one. Chairman Tenhave commented 4-5 years ago the Commission was provided with photos of one at Grater Woods. Councilor Vaillancourt questioned, and was told the Commission has not heard of issues with human interaction. Commissioner Glenn commented, like bear, they teach their young over a number of years. If the mother is trapped the babies will perish as well.

Councilor Vaillancourt questioned if the Commission is aware of any other Conservation Commissions who have taken a formal stand to write to New Hampshire Fish & Game. Commissioner Glenn stated the Stoddard Conservation Commission has started the write-in campaign. She stated she is aware of another Commission that is writing its own letter, and believes there is another that has signed on. However, the issue is on January agendas for commissions.

Vice Chairman Caron questioned if there is history of Commissions banding together and reaching out to Fish & Game, and their actions having an impact on decisions reached. Commissioner Glenn responded she is unsure. When asked, she stated the proposal would be that licensing be required. Commissioner Glenn noted although there would be revenue involved, the effort is not for the sake of generating revenue, it is for the benefit of trappers. She stated there to be a petition going around that has almost 12,000 signatures of New Hampshire residents against allowing a Bobcat season ([savethebobcatnh](http://savethebobcatnh.com)).

Chairman Tenhave questioned the will of the Commission.

MOTION BY COMMISSIONER GLENN THAT THE COMMISSION SIGN THE LETTER PROVIDED BY THE STODDARD CONSERVATION COMMISSION TO BE FORWARDED TO THE NEW HAMPSHIRE FISH & GAME COMMISSIONERS REQUESTING THEY RECONSIDER THEIR DECISION AND NOT ALLOW A BOBCAT SEASON

MOTION SECONDED BY COMMISSIONER BOISVERT

MOTION CARRIED

6-0-0

OTHER BUSINESS

- Seedlings

Commissioner Perry noted receipt of the seedling catalogue for 2016. Mr. Currier has offered to continue hosting the event at his orchard. A local Arborist has requested to be involved with the selection of the seedlings. Commissioner Perry remarked he will likely continue with the same number of seedlings as in years past (400). The cost is typically \$350 - \$400. A list will be compiled for presentation at the January meeting. The target date for the giveaway is the Saturday before Mother's Day.

- Hillsborough County Conservation District

Their Annual Meeting is scheduled for Tuesday January 12, 2016 from 6:30 p.m. to 9:00 p.m. Members of the Commission have been invited to attend. Vice Chairman Caron commented he may be able to attend.

The consensus of the Commission was to reimburse Vice Chairman Caron for expenses associated with his attendance at the Hillsborough County Conservation District Annual Meeting.

- Annual Meeting with Town Council

Chairman Tenhave stated the Commission's Annual Meeting with the Town Council typically happens in the first week of January. He requested it be pushed out to the 14th or later. Chairman Harrington had responded it could be put on an agenda in February. Chairman Tenhave left the options open, however, explained he would be unable to participate if it were scheduled for the first week of January.

Chairman Tenhave commented he typically provides the Commission with a preview of what will be presented to the Council. If scheduled for the Town Council's January 14th meeting, he will be prepared to present the material at the Commission's January 11th meeting.

- Review of the property inspection the Commission did on 12/12/2015

Chairman Tenhave spoke of the three-hour walk, which included a review of some of the newer parcels. Photographs were taken. A good deal of time was spent in the target shooting area.

Commissioner Boisvert commented it seemed as though they were out looking at problems; the road, target shooting, illegal trails, etc. Chairman Tenhave remarked someone has been active marking trails and using them on motorized vehicles. Comments were made about the beauty of the area, the amount of topography, etc. Vice Chairman Caron stated a clean-up day would be scheduled. The Sub-Committee will contact the Public Works Department regarding the use of a truck.

- Target Shooting/Firearms ordinance update

Councilor Vaillancourt stated the Town Attorney is crafting language. Chairman Tenhave has provided feedback on a draft, and the attorney's work continues. She stated she has spoken with the School District Superintendent, Business Administrator, and School Board member Shannon Barnes who also sits on the Grater Woods Sub-Committee. They are all very enthusiastic about participating and appreciative of being invited. They wholeheartedly support including the School District and their parcels in the language of the ordinance. Once there is a draft to present to the Commission, she would like to formally present it to the School Board, and then formally present it to the Town Council. The Council is aware of the efforts of the Commission. The Police Chief is also aware of the Commission's efforts.

- Scout Project for HHNP

Chairman Tenhave noted the Commission has been approached by a Scout who wants to do a project at the Spaulding Foundation in the HHNP along the Loop Trail. The connection has been made with Peter Mikolajczuk, a member of the Sub-Committee. Chairman Tenhave has spoken with both of them, and left it up to the two of them to get together to speak about it. It is at the beginning stages of the proposal. Mr. Coryell has stated a desire to be part of the proposal. The Commission will be part of the approval process.

- Beaver Policy and Water Control Activities.

Commissioner Perry stated the activity around here has dropped off considerably. Vice Chairman Caron stated the area at the HHNP is significantly dammed up. The little wall that was done around the trail seems to be holding it. However, it could be enforced. Commissioner Perry noted he was told the minute we get freezing temperatures and the water freezes over, beaver activity will stop. Mike Callahan, Beaver Solutions, has stated the Commission will be placed on the list for the spring. Vice Chairman Caron commented if they continue doing this in the spring there will be no trees remaining. The landscaping has drastically changed from the activity that has occurred. Commissioner Glenn commented that is part of the cycle. Commissioner Perry stated the water leveling devices will not stop the beavers from chewing.

Mike has stated a desire to be provided with pictures as well as a determination of where the Commission would like to see the water level. Commissioner Perry stated he would provide that information.

It was noted the install was done for the Wastewater Division. It was not at Mast Road, it was at Cathy Drive. Commissioner Perry stated he would visit the area and take photos so that the data can be put on the map. Commissioner Glenn commented if there are particular trees the Commission wishes to save, they can be wrapped. Vice Chairman Caron stated Greens Pond is almost empty. The duck boxes he and Commissioner Boisvert hung are now 20' up in a tree because the water is just gone. The beaver huts that were out there; you can see the hole they went in and are able to walk up to them. Commissioner Perry commented the UNH Cooperative Extension may have a desire to visit the area with cameras.

Councilor Vaillancourt informed the Commission when the Town Council began discussing the proposed FY17 budget she brought up the Commission's request for the Town to participate financially towards the beaver management plan. Commissioner Perry stated he has spoken with Assistant Town Manager/ Finance Director, Paul Micali, regarding that. Councilor Vaillancourt stated everyone who was present at the Town Council meeting heard his response, and nobody said anything about it. She noted there is always the opportunity for the allocation to be removed during the budget process. Commissioner Perry commented it is pretty short money in total.

- Grater Woods Sub-Committee Bridge Work

Vice Chairman Caron informed the Commission the Grater Woods Sub-Committee has been discussing doing the bridge that goes from the school loop over to Marty Drive, which is another area where students are coming across. Ms. Barnes mentioned that they had possible funding from the school given most of that area is their property. At the School Board meeting, they are voting on funding the bridge and trail improvement up to that point.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. November 16, 2015

The following amendments were offered:

Commissioner Glenn noted the sentence on page 4, line 12, which read: "Chairman Tenhave stated his assumption when the pavement is removed, the next layer below would be removed as well." She questioned why that would be necessary. Chairman Tenhave stated he brought that up because he wanted to be sure they were creating a pervious area; soil conditions where water would go through. Sometimes just under the pavement the area is packed hard with gravel and water really doesn't go through it just kind of sheets off and goes in different directions. They were going to remove part of their parking lot and turn it back into a grassed or natural area. And he wanted to ensure they didn't just strip the pavement and throw a little bit of loam down because it would seed up and look really nice when it is wet, and then when the summer comes it dries out because there is no water.

- Page 2, Line 19; add a "," after "manner"
- Page 3, Line 2; insert "is that" after "hope"
- Page 3, Line 27; replace "Mobile" with "Mobil"
- Page 3, Line 51; insert "that" before "no work"
- Page 4, Line 20; replace "resent" with "resubmit"
- Page 5, Line 5; replace "certain" with "certainly"
- Page 5, Line 40; replace "anticipate" with "anticipated"
- Page 6, Lines 31 & 32; delete "Regional Conservation Commission (RCC)"
- Page 6, Line 44; replace "anticipation" with "anticipated"
- Page 9, Line 18; replace "migrating" with "mitigating"
- Page 15, Line 39; add Grater Woods" before "Sub-Committee"

Commissioner Perry stated the desire to provide clarification on one of the stated remarks captured within the minutes; on page 1 it states "He remarked all volunteers for these committees are not afforded the same luxury of attendance as others, and it shouldn't be an indication of lack of interest that results in loss of promised access to Town property." He stated there are no promises about access. This is all something that gets done in public by committee. It is not a promised access to anything.

MOTION BY COMMISSIONER GLENN TO ACCEPT AS AMENDED

**MOTION SECONDED BY COMMISSIONER CARON
MOTION CARRIED
6-0-0**

Merrimack Conservation Commission. December 7,
2015

The following amendments were offered:

Page 1; add "Peter Mikolajczuk, Horse Hill Nature Preserve Sub-Committee" to the list of those in attendance

Page 3, Line 35; insert "that" before "the"

Page 5, Line 16; insert a "," after "agreement"

Page 7, Line 24; replace "Coryell" with "Roberge"

Page 7, Line 48; delete "they can"

Page 9, Line 5; insert a "," after "coming"

Page 10, Line 37; replace "e" with "he"

**MOTION BY COMMISSIONER BOISVERT TO ACCEPT AS AMENDED
MOTION SECONDED BY COMMISSIONER GLENN
MOTION CARRIED
5-0-1**

Councilor Vaillancourt Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

ADJOURNMENT

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

The December 21, 2015 meeting of the Merrimack Conservation Commission was adjourned at 9:20 p.m.

Submitted by Dawn MacMillan