

City of Keene
New Hampshire

CONSERVATION COMMISSION
MEETING MINUTES

Monday, September 17, 2018

4:30 PM

**2nd Floor Conference Room,
City Hall**

Members Present:

Thomas Haynes, Chair
Andrew Madison, Vice Chair (Arrived
Late)
Councilor George Hansel
Brian Reilly
Alexander Von Plinsky, IV
Eloise Clark
Ken Bergman, Alternate
Art Walker, Alternate

Staff Present:

Rhett Lamb, Community Development
Director/Assistant City Manager

Members Not Present:

Denise Burchsted

1) Call to Order

Chair Haynes called the meeting to order at 4:30 PM and thanked Mr. Madison for leading the August meeting.

2) Approval of Meeting Minutes – August 20, 2018

Councilor Hansel moved to approve the minutes of August 20, 2018, which Mr. Reilly seconded and the Conservation Commission carried unanimously.

3) Communication & Notifications

a. NH DED Memorandum Regarding Keene City-Wide Stream Inventory and Maintenance Program

Chair Haynes said there is nothing for the Commission to do with this memo; it is available informationally and to determine if the Commission has any questions. Mr. Lamb said this is associated with a permit for dredging Beaver Brook the City did to resolve drainage problems on the east side seven years ago. A lengthy stream inventory was required for the permit; the state permitting system is different now. The Commission was active in the permitting process at the time, particularly regarding the

tax ditch category of urban streams. If the Commission would like an update now, Public Works staff is happy to come to a meeting, but they were not available for this meeting. Staff believes this change is good but it could change how projects will be permitted in the future; it forces DES to recognize a different category of work in streams the City previously considered maintenance.

Mr. Bergman said it would be helpful to have more background on this project because he is new to the Committee. He also asked approximately how many streams are involved. Mr. Lamb replied the tax ditch system spans a large portion of the Black, Tannery, and Ash Swamp Brooks, as well as lateral ditches treated as wetlands from a maintenance standpoint historically. He was unsure how many stream segments are involved.

Councilor Hansel said he thinks it will be valuable for Public Works staff to present an update on this project for the Commission because only he, Chair Haynes, and Mr. Reilly were on the Commission when this project arose originally. Mr. Lamb agreed it is a good idea so the Commission understands the path projects take through DES; other community members might appreciate an update as well. He will invite the City Engineer to the September meeting. Chair Haynes noted a completed tax ditch survey as a part of the project that staff can discuss at the next meeting as well.

b. NH DES Request for More Information – Wetland Permit by Notification Application #2018-02339 for Chapel Drive in Woodland Cemetery

Mr. Lamb said this project is to replace the culvert and move it approximately 60' under Cemetery Road at Woodland Cemetery. The City initially went through the Wetland Permit by Notification process for this project. DES, however, would prefer a Minimum Impact Permit. Chair Haynes might have to sign the new application if DES does not accept Mr. Madison's signature on the first application.

c. NH DES Notice of Approval with Conditions – Shoreland Impact Permit #2018-01130 for Goose Pond Dam

Chair Haynes said this was additional information about changes to the temporary road to the outlet that needed repairs. This issue is resolved and people are happy about it. Mr. Von Plinsky asked about a timeline and Mr. Lamb will return to the Commission with an answer.

d. NH DES Letter to City of Keene Regarding Request to Extend Response Deadline to Request for More Information for Shoreland Permit Application #2018-01130

Mr. Lamb said this is for the same project as item 3.c. The City requests an application extension to submit the additional information DES asked for.

4) Donation Request

a. Monadnock Conservancy – Conservation Easement Fees for 105 Daniels Hill Road property

Chair Haynes welcomed Stacy Cibula, a project manager at the Monadnock Conservancy; she works with landowners to conserve their private property. This property on Daniels Hill Road, owned by Charles and Judith Domina for 80 years, is a great strategic property for the Conservancy to acquire; it is adjacent to many parcels of undeveloped land on West Hill. All properties abutting this 28,000 acre property are in conservation, making this an excellent addition to the wildlife corridor, which is the primary reason to acquire the property. The property also contributes to a scenic drive with stonewalls and woodlands along Daniels Hill Road, provides great wildlife habitat, and there are also some good water sources (streams and springs). This acquisition would place a conservation easement on the land: a permanent deed restriction to ensure it cannot be subdivided and developed. In this scenario, the family retains private ownership of the land but they and future owners can only use it for conservation. She demonstrated characteristics of the property on an aerial map.

The Conservancy requests \$15,000 to offset transaction costs for the project (the budget was included in the meeting packet). This amount would assist with boundary surveys, staff time, paying attorneys to review legal documents, and contribute to the Conservancy stewardship fund—a permanent endowment to ensure the more than 200 easements (19,000 acres) are monitored and enforced. Councilor Hansel asked if the City's contribution to this endowment will ensure stewardship of this property only, or all Conservancy properties. Ms. Cibula replied it is a communal fund for all properties, even those outside Keene. She did not breakdown exactly what the \$15,000 City contribution will be used for in the budget, but she does not believe the entirety will go into the endowment. The landowners as well as the Conservancy Greenways and Corridor Fund are also contributing to the \$29,162 total cost of acquisition.

Chair Haynes asked, in the larger vision of greenways, if the Conservancy has any other parcels in mind to expand this network. Ms. Cibula replied there is another in West Chesterfield but she is unaware of others in Keene. The Conservancy always wants to enhance large unfragmented conservation areas. Ms. Clark noted she was on the Commission when they made contributions to acquire the Meyer and Snowman properties; she said this is a perfect extension of Commission work and she supports this donation.

Chair Haynes recalled that this donation would come from the Commission budget, which is comprised of the Land Use Change Tax fund (a commercial development tax) and a yearly contribution from the City (tax payers). Ms. Cibula said she can restructure the budget so the City's contribution goes toward staff costs, etc. as opposed to the endowment. Councilor Hansel said he supports the project but he is concerned about how tax payers will feel contributing to projects outside Keene. Ms. Cibula said she respects Councilor Hansel's concerns and understands, politically, if it is easier to restructure the

budget. Mr. Lamb provided another perspective: the City's contribution to the endowment could pay staff to steward that land in Keene for 30 years.

Ms. Cibula continued that an easement base rate is typically \$7,500, but this project is \$15,000 because there are actually two parcels (north and south) because of the tax lots and will therefore create more stewardship work.

Councilor Hansel said he is comfortable moving forward contingent upon a more detailed budget, including a breakdown of easement costs over time; this will make the donation easier to justify to the Council and community. This is an informal recommendation to the petitioner to bring a more detailed budget to the Finance, Organization and Personnel Committee. Ms. Clark also recommended highlighting to Council how many parcels Keene already stewards to demonstrate a bigger picture of conservancy work.

Councilor Hansel moved for the Conservation Commission to recommend that City Council make the \$15,000 contribution from the Land Use Change Tax Fund to the Monadnock Conservancy for the Domina property conservation easement project. Mr. Reilly seconded the motion and the Conservation Commission carried it unanimously.

5) Updates/Status

a. Aquatic Resource Management Subcommittee Priority Projects

Chair Haynes said the subcommittee did not meet the previous month and will likely have a report in October.

b. Land Prioritization Criteria Subcommittee

Chair Haynes said the subcommittee needs staff support to accomplish this project but staff has other obligations right now. He said Chris Cusack from KSC noted campus-wide senior capstone projects in which students could contribute to land prioritization. Mr. Bergman said there is also GIS faculty who could contribute. Chair Haynes said he tried through Antioch initially but thinks the opportunity has passed for this semester. He thinks a student project/internship might be the best way to move this prioritization forward. The Commission has developed a list of priorities and values and can help students to map areas that correlate with that list. He will provide an additional update in October.

c. Commission Functions/Roles

Councilor Hansel recalled that he volunteered to update and streamline the Commission roles. The Commission has already had an opportunity to review these changes. Mr. Lamb said staff has no further comments; the City Attorney reviewed the changes as well, though ultimately accepting the changes is a Council decision because it involves updating Chapter Two of the City Code.

Mr. Bergman recalled questions about how the roles of alternates should be addressed. Mr. Lamb said some charges are very specific about alternates and others are not. Councilor Hansel said he used the language of the recently updated Energy and Climate Committee roles; in that case, Mr. Lamb believes this is accurate. Mr. Reilly noted the list addresses three year terms but not term limits. Mr. Lamb said term limits are addressed elsewhere in the City Code and apply to all committees.

Mr. Reilly asked if the Commission has control over any money other than the Land Use Change Tax Fund. Mr. Lamb replied that state statute allows the Commission to use that fund but the Council created the Commission and oversees the financial aspects of your work. In that case, Mr. Reilly asked why financial contributions should be addressed in the Commission roles. Mr. Lamb replied leaving that in place allows the Commission to retain that right if Chapter Two of the Code is ever rewritten. Councilor Hansel added this responsibility also indicates to applicants that they need to present to the Commission if they seek a gift.

Mr. Reilly asked about the new Sec. 2-774.14. Councilor Hansel explained if the Master Plan is ever updated, this will demonstrate the Commission's ability to submit feedback for that process.

Councilor Hansel continued explaining his rationale for eliminating the old Sec. 2-774.25, which reads: *Make certain, in cooperation with other boards and the City Council, that pollution control practices are incorporated into consideration of Commission programs.* He deleted this because it is redundant with the new charge of the Energy and Climate Committee. Mr. Madison suggested keeping #25 because it falls within the Commission's charge. Mr. Lamb suggested keeping it but being more specific so it is unique from other committees; from the Commission's perspective, air pollution could have more to do with water quality, for example. The Energy and Climate Committee does not address water quality. Councilor Hansel said the Commission could advocate for forested lands that positively impact air quality in the City; the Commission has never focused on pollution practices or measurement. He said each Commission function should relate to an action the Commission does and he does not think this applies well, as written currently. Mr. Von Plinsky asked if this is similar to Commission comments on trucks in a brook buffer zone along RT-101 last year. Mr. Lamb replied the Commission has authority to review Wetland Permit applications. Mr. Walker suggested keeping the language but adding: *as appropriate to its mission*, so the Commission is not accepting responsibility for all pollution. Ms. Clark added that pollution is not a contemporary term; she suggested a focus on climate change mitigation as a factor in air quality. The Commission agreed to keep #25 with the following language: *Make certain, in cooperation with other boards and the City Council, to support goals outlined in the Climate Action Plan and Comprehensive Master Plan as it relates to land use in Keene.*

The Commission provided the following additional changes to the roles and functions (all section numbers refer to the *new* numbers; e.g., old 20 is new 15):

- Sec. 2-774.1
 - Change *development* to *stewardship*

- Sec. 2-774.19
 - Should now read: *Appear before state and federal agencies to request financial assistance to advocate changes in state laws and federal regulation as they affect the ability of the Commission to carry out its functions.*

Mr. Von Plinsky thanked Councilor Hansel for adding Sec. 2-774.20 because it is important for the Commission to monitor easements. He asked if the Commission can review that procedure at a future meeting.

Councilor Hansel shared these updates with Mr. Lamb, who will bring them back to the Commission once more in October before sending it to Council.

d. West Street Hydro, Inc. – Cancellation of Hydropower Project at West Street Dam – acceptance by Keene City Council

West Street Hydro is no longer interested in a project at the West Street Dam. Mr. Lamb and Ms. Kessler have been exploring next steps and the Rhode Island School of Design (RISD) project is still moving forward (an informal agreement and letter from the City Manager). Staff is taking a step back to develop a new solution to present to Council. The Public Works Department and Council are responsible for complying with structural safety standards of the dam (outlined by the state, which has not provided a physical deadline yet because the City is making progress). The Commission will be informed about the RISD project, will review proposed dam solutions, and will provide comments again. The letter of deficiency from the state primarily addresses the release structure used for the mill historically. The gate valves do not work and need to be repaired along with the 1,700' levee and parts of the granite surface. Mr. Bergman asked the risks of the dam failing. Mr. Lamb replied it is a low-risk dam because it does not retain a lot of water. The state's biggest concern is that high water levels could cause that levee along the west shore to fail.

6) New or Other Business

Ms. Clark noted a potluck for Conservation Commission's at Stonewall Farm on Tuesday, October 2nd from 5:00-7:30 PM. She went in 2017 and it was great, but the event requires advance registration. Eric Aldridge is the speaker this year. Chair Haynes cannot make it but hopes other can.

Ms. Clark added she received a notice from a Friends of Open Space member regarding the Ellis Harrison Park in the NE corner of Keene. An abutter on the west side of Beaver Brook wants to buy a small part of the park and Council is considering it. Councilor Hansel said there is a request to purchase a parcel on the west side of the park that may not move forward. Staff is investigating how the land was acquired; if federal funds were used, there will be many stipulations for dissolving ownership of land bought with those funds. Mr. Bergman asked if there is weather monitoring equipment in that location. Councilor Hansel said staff testified there is no reasonable use of the land and staff is fine

with selling it because you have to cross the brook to access it. The current adjacent property owner wants to buy the parcel because it makes their property more marketable and they already have a shed on the parcel. It is likely a floodplain area but there is no value for flood storage because of the grade. Councilor Hansel suggested adding this to the October agenda before getting into more specifics; he does not think it is procedurally relevant, but the Commission can always comment if a waterway is involved. Ms. Clark will share the notice with Ms. Kessler.

7) Adjournment – Next Meeting Date: Monday, October 17, 2018

Mr. Bergman will not attend the October meeting.

Hearing no further business, Chair Haynes adjourned the meeting at 5:42 PM.

Respectfully submitted by,
Katrana Kibler, Minute Taker