

City of Keene  
New Hampshire

CONSERVATION COMMISSION  
MEETING MINUTES

**Monday, October 15, 2018**

**4:30 PM**

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

**Members Present:**

Thomas Haynes, Chair  
Andrew Madison, Vice Chair  
Eloise Clark  
Alexander Von Plinsky, IV  
Brian Reilly

**Staff Present:**

Rhett Lamb, Community Development  
Director/Assistant City Manager

**Members Not Present:**

Denise Burchsted  
Councilor George Hansel  
Art Walker, Alternate  
Ken Bergman, Alternate

**1) Call to Order**

Chair Haynes called the meeting to order at 4:30 PM.

**2) Approval of Minutes – September 17, 2018**

Mr. Madison moved to approve the minutes of September 17, 2018, which Mr. Von Plinsky seconded and the Conservation Commission carried unanimously.

**3) Communication & Notifications**

**a. Shoreland Permit Application – 11 Production Avenue – Subaru Addition**

Mr. Lamb recalled this is only a notification and does not require Commission action. While there are no direct impacts to wetlands, the Shoreland Water Quality Protection Act has standards that apply to the wetland buffer. This applicant is within the 50' or 100' buffer, for which they have to compensate by adding trees (in this instance) to the buffer. In response to Ms. Clark, Mr. Lamb noted that NH Department of Environmental Services (DES) monitors and enforces Shoreland Permits. This location is classified as a shoreland instead of a wetland because of Ash Swamp Brook; this stream is Class Four or larger and thus it is classified as a shoreland. These applicants also completed Planning Board Site Plan Review. The Commission accepted this notification.

**4) Commission Chair & Vice Chair**

Chair Haynes' term ends in December 2018 and he can no longer serve as an official member of the Commission. He brought this to the Commission's attention so they can begin thinking about an appropriate replacement as Chair. The Commission will discuss and vote hopefully at the November meeting. Mr. Madison (Vice Chair) is under no obligation to take the role of Chair but it would be good if a current member took that position. Mr. Reilly agreed it is a good idea for someone who has longer than one year left in their term. Chair Haynes agreed he has served as Chair for longer than a typical term, which might have been too much, so two/three years are likely ideal.

**5) Proposed Updates to Section 2-774 of the City Code of Ordinances Related to Conservation Commission Powers, Duties, & Guidelines**

Chair Haynes recalled this is an update to the City Code of Ordinances that Councilor Hansel has worked on. While the full Commission was not available to vote on this (as is preferred), he thinks members have discussed these changes enough to move forward. City staff is comfortable with the changes as well. Mr. Reilly agreed there was good discussion about the changes at the September meeting; the rest of the Commission agreed.

Mr. Reilly moved to adopt the proposed updates to Section 2-774 of the City Code of Ordinances Related to Conservation Commission Powers, Duties, and Guidelines as presented in the October 15, 2018 meeting packet. Mr. Madison seconded the motion, which the Conservation Commission carried unanimously.

**6) Ellis Harrison Park Request to City Council to Acquire Property**

Chair Haynes noted information was included in the meeting packet from the Planning, Licenses, and Development (PLD) Committee recommending that the portion of City owned property located at off Giffin Street be declared as surplus property.

Mr. Lamb recalled in August, the City was working with an adjacent property owner who wanted to buy a piece of this land for the back of their property. The parcel is on the west side of Beaver Brook and disconnected from the main portion of the parkland, as he demonstrated on a map. The adjacent property owner already has a storage shed at or over the property line. Staff, including the Parks, Recreation & Facilities Director, found this is an isolated piece of City land associated with the Ellis Harrison Park but is not used or maintained by the City. At this time, staff is moving forward to see if Council wants to maintain this land as City property or sell it. The PLD Committee agreed this could be considered as surplus property, however, in the 1970s the City applied for federal Land and Water Conservation funds. Those funds have been used for park development and maintenance across the City since, including the playground and tennis courts at this property. Use of federal funds usually places restrictions on future sale of the land. At this point, after speaking with the relevant state and federal agencies, it does seem selling this land is subject to the Land and Water Conservation restrictions. Now, Council will decide if they want to proceed petitioning the federal agency to sell that parcel of land. Council has done so once before for the basketball courts on Water Street near the bike path with another federal agency; the City was released from prohibition of sale through equal exchange of property with an adjacent property owner.

Commission members agreed they are not familiar with that portion of the park. Mr. Lamb agreed it is just a part of the floodplain the City does not maintain because it is inaccessible without crossing the brook. Chair Haynes questioned, if it is not valuable land to the City, if it is valuable wildlife habitat. Mr. Von Plinsky said he likes that the undevelopable parcel is there because brooks meander over time; even though it is small and isolated, he still thinks it is valuable. Mr. Reilly asked, if it were sold to the adjacent property owner, if they could develop it in any way they choose. Mr. Lamb replied it is not a separate developable lot, so any future use must relate to the properties current use. The parcel is steep, on the edge of the floodplain, and he does not think there is an economic value to the property for fill.

There will not likely be action on this quickly, so Chair Haynes suggested a site visit might help the Commission better understand these possibilities; the parcel should be visible from Night Street.

Ms. Clark asked if this could fall under the Steep Slopes Ordinance. Mr. Lamb replied he has not yet looked at it from that point of view, but it is likely because it is so steep. Ms. Clark also asked if there is an ethical precedent to the City selling land to neighbors. Mr. Lamb said it happens quite often and depends really on what the land is and how the City acquired the land. The City has acquired many small parcels over time that, for example, was maybe never developed as intended or fell into unknown ownership. In some cases, the City is open to selling to a neighbor who is willing to maintain the land. Each case is unique and this situation depends on Land and Water Conservation stipulations; still, these are the right questions for the Commission to be asking.

Mr. Von Plinsky asked, if approved for sale, where the revenue from this land would go. Mr. Lamb replied that is a great question and if the Commission recommends sale there is no reason not to recommend that money goes back into one of the conservation funds; that might be the best trade-off to show the Land and Water Conservation fund that this is a priority. Chair Haynes added this could also relate to the Aquatic Resource Management work.

#### **7) Aquatic Resource Management Subcommittee**

Chair Haynes reported the subcommittee is meeting the week of October 22 and will provide an update at the November Commission meeting.

#### **8) Updates**

##### **a. West Street Dam**

Chair Haynes recalled that West Street Hydro is no longer interested in the dam.

Mr. Lamb provided an update about the Rhode Island School of Design (RISD) proposed West Street Dam project. Staff is in communication with Dr. Vogler from RISD, who has prepared a proposal to show how their framework can assist in decision making around the dam. The project would likely begin in January/February 2019; Public Works and Community Development staff is working with Dr. Vogler to refine that proposal. It is a

reasonable framework from Mr. Lamb's point of view and a proposal will move forward to Council when it is finalized; the Commission will receive updates along the way as well. Staff has had to restart research on the dam and RISD has a great framework that could help, if it works out. The RISD team is providing a lot of the decision making service for free as a part of their research. However, the City will have to hire a consultant to conduct a feasibility analysis of each alternative, which is expensive. That potential cost is a current area of debate, and from the engineering perspective it is problematic if that cost ever changes. These are the details in discussion right now.

Mr. Von Plinsky talked to colleagues at the University of Massachusetts about bringing student design teams to Keene to work on various projects, like the Marlboro Street connector. He asked if the City, in general, would be opposed to something like that; he thinks of it as free ideas. Mr. Lamb said it has to be in the context of decision making and budgeting the City has to consider for these projects. Each year staff and Council update the Capital Improvement Program (CIP) to forecast and include projects for the next six years (one-time expenses greater than \$20-30,000). The budgets included in the CIP are not arbitrary; they are calculated carefully by the engineering staff so future deviations are not too extreme and stay within City means. He said a classroom exercise around one of these projects is doable, but only within the context of the project budget. Mr. Von Plinsky understood and said these projects are more about the student's workshopping ideas and less about budget, in his experience. Chair Haynes said it would be good to coordinate with engineering staff to see where a student project could fit in. Mr. Lamb said it is possible and has happened many times in the past. Chair Haynes said Mr. Von Plinsky can share ideas the Commission discusses with his contacts at UMass and see what they think moving forward.

**b. Greater Goose Pond Forest Stewardship Plan**

The consultants are working to bring the plan back to the Committee in advance of a public meeting. Ms. Kessler has not received the draft plan yet. The Commission hoped the field work would be complete in August/September and they are unsure what the delay is. Mr. Lamb agreed that is the case and staff will be contacting Mr. Littleton to stress the importance of an update and completing the project within the ideal timeframe.

**c. Goose Pond Dam**

Ms. Clark reported that Asheulot River Local Advisory Committee received notification that all permits were issued for the Goose Pond Dam. There are no other updates at this time.

**d. Citywide Stream Inventory**

Chair Haynes recalled the Commission wanted an update on the tax ditch system but the City Engineer was not available for this meeting. He will discuss this item and another update at the November meeting.

**e. Other**

Ms. Clark asked about negotiations on the Beauregard property. Mr. Lamb replied he is working on a proposal for the City Manager. The first step is to hire an appraiser, which

the Director of Parks, Recreation & Facilities will be involved in. Mr. Lamb will likely have an update at the November meeting. Chair Haynes noted when appraisals are necessary there is a fee and he asked who is responsible for paying that. Mr. Lamb replied it is usually a minor fee (less than \$5,000) that can potentially be absorbed in the Community Development budget; if more is needed it could be requested from the Commission budget. Ms. Clark is excited to see this project move forward as she has worked on it more than 10 years.

Ms. Clark noted the NH Association of Conservation Districts has their annual meeting on November 3 at Pembroke Academy. Chair Haynes recalled members that have attended in the past and the Commission will still pay fees for members to attend. Anyone interested should contact Chair Haynes or Lee in the Community Development Department, who will help with registration.

**9) New or Other Business**

Chair Haynes recalled that Ms. Kessler has other commitments at this time, so Mr. Lamb is the current contact for the Commission.

Chair Haynes read a letter the Community Development Department received from Friends of Open Space:

*We would like to make the Conservation Commission aware that staff of the City of Keene asked us to remove a proposal from the agenda for your May 21, 2018 meeting shortly before that meeting. The removal was never mentioned at the meeting. This proposal was for the then empty lot at 169 Church Street to be retained as open space since it is adjacent to Beaver Brook and lies within the FEMA floodway. We were hoping that the Conservation Commission would be interested in helping to preserve an ecologically significant piece of land while creating an opportunity for community beautification. It is also our understanding that acquiring property within the Beaver Brook floodway is part of the long-term plan of the City of Keene. While we understand at this time that nothing can be done to resurrect this proposal, we do feel that it is important that the Conservation Commission be aware that control of the agenda by the City of Keene staff prevented discussion without the Commission's knowledge.*

*Sincerely,*

*Margaret Kasschau, Friends of Open Space*

Chair Haynes said he remembers the building that burned and was demolished at that location. He recalls the discussion of its potential as open space but realizes it was overlooked after that. The parcel has already sold to a private owner so the Commission cannot take action now.

Mr. Lamb said this letter came in after the agenda was issued. He suggested agendaizing this for a future meeting to allow all members a chance to review the letter and allow Friends of Open Space to be present at the meeting for discussion, if they choose. It is up to Chair Haynes to decide if this rises to a level to become an agenda item and Mr. Lamb is happy to provide any information needed. Not only would agendaizing it be an opportunity to address this in an appropriate way, Mr. Lamb noted there are also serious

allegations in the letter and the Commission should have all the relevant information before any further discussion. As a personnel matter, this is not in the Commission's jurisdiction, so Mr. Lamb will take this letter to the City Manager. Any discussion at this time would be limited to Commission policies and if changes should be made in the future. Mr. Lamb has reviewed some of the information with the City Attorney already and he spoke with Daniel Prial (President of Friends of Open Space). Ms. Clark noted she is no longer a member of Friends of Open Space so she cannot comment. Chair Haynes agreed to table this for now and add this to a future agenda.

Mr. Madison noted he would be sending his resignation from the Commission to the Mayor; he moving to Concord but will miss serving on the Commission. Chair Haynes thanked Mr. Madison for his time and expertise that have been much appreciated on the Commission; the rest of the members agreed. Mr. Lamb reminded him to send a physical signed letter to the Mayor; an email will not suffice. Chair Haynes noted there are two alternates who can join as full members and we are always looking for new full-time or alternate members; the Commission members should begin recruiting. Mr. Lamb will provide an update on whose terms are ending at the November meeting.

**10) Adjournment – Next Meeting Date: Monday, November 19, 2018**

Hearing no further business, Chair Haynes adjourned the meeting at 5:24 PM.

Respectfully submitted by,  
Katryna Kibler, Minute Taker  
Reviewed by Rhett Lamb, Com. Dev. Dir./ACM