

**CITY OF KEENE
NEW HAMPSHIRE**

**JOINT PUBLIC WORKSHOP
PLANNING BOARD/
PLANNING, LICENSES, AND DEVELOPMENT COMMITTEE
MEETING MINUTES**

Monday, August 13, 2018

6:30 PM

Council Chambers

Planning Board Members Present

Gary Spykman, Chair
Douglas Barrett, Vice-Chair
Michael Burke
Nathaniel Stout
Councilor George Hansel
Chris Cusack
Martha Landry

Planning Board Members Not Present

Mayor Kendall Lane
Pamela Russell Slack

**Planning, Licenses and Development
Committee Members Present**

David Richards, Chairman
Councilor Bart Sapeta
Councilor Margaret Rice
Councilor George Hansel

**Planning, Licenses and Development
Committee Members Not Present**

Councilor Philip Jones

Staff Present

Rhett Lamb, Community Development Director
Tara Kessler, Senior Planner
Kurt Blomquist, Public Works Director
Medard Kopczynski
John Rogers, Code Enforcement Director

1. Roll Call

Chair Richards called the meeting to order at 6:30 pm and a roll call was taken.

2. July 9, 2018 meeting minutes

A motion was made by Councilor George Hansel that the Joint Committee accept the July 9, 2018 meeting minutes. The motion was seconded by Councilor Margaret Rice and was unanimously approved.

3. Land Use Code Update Discussion

a) Storm water Management

Mr. Kopczynski began by reminding the Committee that the city was in phase 2 of a project which is to develop a Unified Development Code. He noted what staff is doing at the present time is to take apart the existing code. There are three groups represented with this work- the public, the development community, and the Joint Committee. Most of the work staff is doing is

cleaning up what exists, however, what staff brings before the committee are items staff feels the Committee needs to provide feedback on.

Planner Tara Kessler added the topics coming before the Committee is also for educational purposes. Ms. Kessler began by explaining how the water cycle works. She noted in a developed area like Keene only 5% of water goes into the ground and into the bedrock and about 55% is surface runoff. Water that goes deeper creates ground water and this is what creates drinking water. An important source of ground water comes from aquifers and in the Monadnock region ground water comes from stratified drift aquifers where water is easily recoverable and one of the largest aquifers in the Monadnock Region are located under the Swanzey airport. However, much of Keene's development is located on top of these aquifers.

Where does Keene's drinking water come from? Two of the major sources of drinking water come from wells where water is drawn from. However, when water doesn't infiltrate into the ground excess runoff is caused. The effects of excess runoff causes flooding, soil and streambank erosion, excess pollutants enter streams and economic impacts; Keene has had a history of flooding and referred to various images of Keene's major flooding events.

Why is Keene subject to flooding? It is because we are in a valley floor, water is flowing from higher elevations into streams. There are streams that run through our downtown.

Ms. Kessler referred to different scenarios of flooding elevations in Keene. For instance, the 2005 flooding event went well beyond the 100-year floodplain and just because you have the boundaries it does not mean you are contained to certain flooding events. Keene has experienced flooding as way back as 1927.

With reference to storm water management the city has three different sections of the ordinance:

- *City's zoning ordinance – no increased runoff could be permitted as a result of any development.

- *Planning Board Drainage standards – you can't have increased runoff or velocity onto adjacent properties because of development as well as low impact development.

- *City Code Ordinances – street design standards specific to roads and parking lots.

The city's roads are designed for ten year storm events but this does not take into consideration water that comes from private sites onto the roads.

Mr. Lamb stated these are regulations that deal with development on private property and the city cannot expect the changes to correct and existing problem; the best the city could do is to allow new development to occur and make sure existing issues don't get worse.

Ms. Kessler then went over the goals for local storm water regulation? They are to protect water quality, reduce flooding and public safety.

If the city was to change its standards what are the options? The city wouldn't require existing development to change, but there is still land that has not been paved over and the city should look at those sites with these new standards mind. Another solution is how the city applies storm water standards for commercial and residential settings

Options for how storm water is addressed:

The city could maintain its current standards, establish standards specific to redevelopment and greenfields development, incentivize innovative storm water management practices. Ms. Kessler went onto say something the city could consider for the future would be to adopt a storm water utility – this is a user fee model where property owners in a storm water district would be

charged a fee for the amount of impervious surface area and this fee would go into a dedicated fund which would be used to maintain the city's storm water infrastructure. Communities like Dover, Nashua, and Portsmouth have looked into this idea but none have adopted it so far in New Hampshire.

Dr. Cusack asked staff to address permeable pavement and how this item fits into this discussion. Mr. Lamb stated permeable pavement is usually constructed with extra systems on site and it is a good system where there are swales that allow for rapid infiltration. As far as maintenance, some sites have been more successful than others and referred to the site in front of the Franklin School which system because of the rapid discharge of water and salt has caused the degradation. Public Works Director Kurt Blomquist agreed the overuse of salt on the school property is the cause of the degradation of this permeable surface.

Councilor Hansel stated what needs to be discussed are what standards developers need to be held to as far as what they design for and asked whether there are other federal standards the city could use as a guidance. Mr. Lamb stated there are other standards, such as a state standards for sites greater than 100,000 square feet known as the Alteration of Terrain Permit where a range of storms are used for their design. He indicated staff was not ready to address these other options at this time.

Mr. Blomquist noted living in the valley floor what each of us does affect our neighbor.

Mr. Burke asked why a 25-year flood plain is considered for a single family home but for roads the standard is a 10-year standard. Mr. Lamb stated these are the inconsistencies that need to be fixed. Mr. Blomquist stated the roads are designed for safety and are designed to handle the 10 or 15 year storms but not on a regular basis. However, because we allow private water to flow onto roads, this now takes up more capacity.

b) Floodplains

Ms. Kessler stated flood plain in Keene are designed for a 100-year storm events and noted the green areas on the maps are the flood hazard zones and is created by our Floodplain Management Agency. For a community to participate in the national flood insurance program there needs to be an ordinance in place which addresses risk to new construction in the flood hazard areas. The purpose of the city's flood plain ordinance as outlined in chapter 54 is to: Reduce flood hazard threats, Protect occupants of floodplain, Protect and enhance the capacity of the floodway, Minimize damage to public facilities, Avoid increases in flood intensity, height, intensity, extent or duration.

Ms. Kessler then went over some proposed updates to chapter 54. There are some sections that are outdated and are no longer applicable, for instance the Ash Swamp Brook Special Flood Hazard area. Mr. Lamb explained with the construction of the Monadnock Market Place, the FEMA maps were modified because there was sufficient changes to the land form – the applicant with the city's permission applied to FEMA to modify the map so that certain areas could be filled and changed the manner in which flood waters flow. Chapter 54 however, did not get updated to capture this change.

The definitions section needs to be updated. There are also some sections that need added clarification. There is also a need for changes to the compensatory storage requirements and closer alignment with the building code.

The exceptions section can be confusing, which needs to be modified.

Compensatory Storage – Mr. Lamb stated Keene has adopted since the early 80's – in order to preserve the capacity of the flood plain, if an area is filled due to development, the standard requires an equivalent amount of fill to be removed from that property so there is no increase in that flood elevation.

Compensatory storage must be done on a foot by foot basis, it cannot be done at a higher elevation. Mr. Lamb used the Fairfields Auto Sales site as an example. When this site was being modified, the building size was getting bigger, fill was required and compensatory storage requirement came up. The developer had difficulty finding storage on their property and could not find it on an adjoining property because of the three feet depth. The issue was brought before staff with a suggestion of adding depth to comply with the compensatory storage requirement. The change was not made and the applicant found another way to sort through this issue, but this item is going to be considered again.

Mr. Lamb then went on to talk about Freeboard Elevation – this calls for the lowest floor including the basement to be one foot above the 100-year flood elevation. Commercial and residential buildings have the option of flood proofing or finding other ways to meet this requirement. Mr. Lamb noted there were some flood events in Keene (2005, 2012) which were bigger than the 100-year flood event and flooded areas which were not mapped on the 100-year flood plain. The question now is whether there should be a standard which calls for one foot above the base elevation for new buildings constructed in these areas. FEMA also maps what is called the 500-year flood plain which is a floodplain with .2% chance of flood occurring.

Chair Spykman felt any member of the community who has been flooded would appreciate having this option.

Ms. Kessler went on to say the City has also adopted a State Building Code which is the 2009 International Building Code which addresses construction standards in flood plains and the city is looking to incorporate these standards into its building code to keep things more current.

c) Surface Water Protection

The purpose of the Surface Water Protection Ordinance is to preserve and protect the functions and values of wetlands and surface water and their buffers, with the aim of preserving water quality, storm water retention, flood plain storage, wildlife habitat and aquifer recharge. This ordinance was adopted in 2012 and came out of the 2010 master plan.

This ordinance calls for a 75 foot buffer in the rural, agricultural and conservation zones and a 30 foot buffer in all remaining districts. Ms. Kessler referred to a few renderings of Beaver Brook and explained the existence of a vegetative buffer which slows down surface runoff and helps water infiltrate into the ground and prevents sedimentation going into water bodies.

Ms. Kessler noted to the water bodies that are exempt such as man-made ditches and swales, detention basins and ponds, irrigation ponds, fire ponds and cisterns, manure lagoons, and silage pits.

As long as best management practices are applied there are things that are permitted, such as agricultural activities, forestry, trails, fishery management etc. However, there are activities that require a conditional use permit from the Planning Board:

Construction of a new structure or expansion of an existing structure, construction of new roadways and driveways, construction of new storm water management facilities, and construction of compensatory flood storage facilities.

Ms. Kessler stated this ordinance has served the city well in that it has helped achieve some of the master plan goals but noted there are opportunities to improve this ordinance; such as the work the conservation commission has undertaken since the ordinance was adopted, Keene is adopting a buffer across all surface waters (this is not unique to Keene). Another opportunity the city sees is to look at the criteria identified for issuing a conditional use permit. Ms. Kessler referred to a list of things the Board should do and could do.

Ms. Kessler went on to say another area which would not fall under this land use code update is the identification of wetlands on a property. Ms. Kessler referred to a wetland mapping rendering, which is not quite site specific. She felt the completion of a city-wide wetland mapping would help administer this ordinance much easier and less the burden on an applicant having to identify where wetlands are located in the city. Mr. Lamb stated this is discussion that came up in 2012 and in 2016 infrared photography became available to the city.

Ms. Kessler stated in 2016 the Conservation Commission following the surface water protection ordinance had been studying proposed changes to the ordinance and proposed changes were submitted to the city council. One of the changes was a change to the definition of *buffer*.

The current definition is as follows:

An area that is designed to remain vegetated in an undisturbed and natural condition to protect adjacent surface water functions and values from adverse impacts and provide habitat for wildlife.

The proposed change would read as follows

An area that is designed ~~to remain vegetated in an undisturbed and natural condition~~ to protect adjacent surface water functions and values from adverse impacts and provide habitat for wildlife.

The second change is under the list of exemptions - man-made ditches and swales, detention basins and ponds, irrigation ponds, fire ponds and cisterns, manure lagoons, silage pits, tax ditches (tannery brook, blackbrook, beaver brook). The city had an agreement with the natural resource conservation service that the city would maintain these water bodies. Such agreement has expired but the city continues to maintain these ditches to prevent flooding.

The recommendation is to delete silage pit, tax ditches, manure lagoons and to consolidate a few other items.

Councilor Hansel noted the surface water ordinance has been in existence for many years and asked whether there was any way to look at it more closely to see if it has the effect it was intended for. Vice-Chair Barrett asked whether the variables between a 100-year flood plain and a 500-year flood plain. Mr. Lamb stated what FEMA looks at is a hydraulic model. The model produces flood elevation for different cross-elevations. Then they use a horizontal extent of a topographic map to produce the horizontal edges as to where this water would end up.

Mr. Kopczyński stated the city has a pick a design number for each of these subjects and also what is exempt from them otherwise over-regulation would come into play. The issue Keene has with water cannot be fixed with any of these standards. This could be an adjustment free board

elevation or it might not be and this is a conversation that needs to take place. He felt a conversation needs to happen to make sure what exists in Keene can be made better.

Mr. Kopczynski asked the Committee for its input. Vice-Chair Barrett stated because the 2005 flood went beyond the 100-year elevation, without having standards to apply only to the 100-year elevation, perhaps define the flood plain as a 500-year flood which would encompass a larger area and would protect more properties.

Mr. Tom Lacey of Daniels Hill Road addressed the Committee and stated he used to be a member of the Conservation Commission who proposed some of the changes. He indicated the reason for proposing these changes were the elderly housing being considered near the Harrison Street area; the project has since been completed but the reason there were concerns because the manner in which the permitting happened and the avoidance of the surface water ordinance. Mr. Lacey went on to say the individuals who at the present time are subject to the surface water ordinance are random and hence the commission felt some of these exemptions could be removed. He felt having a natural buffer is not practical.

Mr. Lacey stated during the 2005 flooding he noticed the brooks in the rural zone were not flooded. He noted having open space would go a long way to help control flooding and letting people using it as open space is important to prevent development from happening. He felt having one buffer size for the entire city is important.

Public Works Director Kurt Blomquist noted anyone in the city is eligible to purchase flood insurance and added this program is changing; reducing payouts that go out. Mr. Blomquist stated during the last storm the average payout was approximately \$23,000 and for those who had their basement flooded and who had physical property damage, this number doesn't do as much. He indicated anything the city can do to mitigate this economic disruption is critical going forward, because the things people think are available won't exist for much longer.

Mr. Stout asked whether the UDO was the way to modify an ordinance. Mr. Lamb stated this ordinance is being modified as it is being reorganized; a UDO is an envelope for codes, it is more of an organizational technique. Staff is making organizational changes and substantive changes.

Chair Spykman stated the only concern he has is adopting this big book of changes and may not take time to look at some of the substantive changes because there is this very broad range of subjects. Mr. Lamb stated beside the form based zoning staff will be bringing forward, which the consultants are currently working on, there won't be other new subjects brought before the council. There won't be elimination to any of the regulatory approaches that exist now.

Councilor Hansel felt it would however, be necessary to dig deep into these regulations and figure out how they have been applied and whether they have created they desired effect. If they haven't then adjustments would need to be made.

Chair Spykman asked whether there is anything about this new unified code that would make it an easier process for revisions to be made in the future. Ms. Kessler stated this is something staff is giving thought to as they move forward with this process; putting everything in one place would be a first step. Staff is also working with the consultants to make this document easier to work with. Mr. Kopczynski added when there are single subject ideas it is necessary to see how they affect the "whole" – to some extent staff is doing this right now.

4. Adjourn

The meeting adjourned at 8:25 pm.

Respectfully submitted,

Krishni Pahl,
Minute Taker