



City of Keene, New Hampshire

CONSERVATION COMMISSION

Monday, September 21, 2020

4:30 PM

**ZOOM**

Commission Members

Alexander Von Plinsky, IV, Chair  
Eloise Clark, Vice Chair  
Kenneth Bergman  
Brian Reilly  
Art Walker

Andrew Madison  
Thomas P. Haynes, Alternate  
Steven Bill, Alternate  
Councilor Robert Williams  
John Therriault

- This meeting will be conducted using the online meeting platform, Zoom. The public may view the meeting online by visiting [www.zoom.us/join](http://www.zoom.us/join) and enter the Meeting ID: **861 0724 4685**.\*
- If you are unable to attend the meeting online, you may call the toll-free # (888) 475-4499 and enter Meeting ID: **861 0724 4685** to listen to the meeting.\*
- More info on how to access this meeting is available on the Conservation Commission webpage at <https://ci.keene.nh.us/conservation-commission>
- If you encounter any issues accessing this meeting, please call **603-757-0622** during the meeting.

1. Call to Order
2. Approval of Meeting Minutes – August 17, 2020
3. Communication and Notifications
4. Informational
  - a. Subcommittee reports
    - Outreach Subcommittee
    - Arm Fund Subcommittee
5. Discussion Items
  - a. Greater Goose Pond Forest Management Plan, Andy Bohannon, Parks, Recreation and Facilities Director
  - b. Continued discussion – Invasive Species Management
  - c. Continued discussion -- Airport CIP Wildlife Fence project – Birding/Habitat viewing along Airport Rd
  - d. Continued Discussion -- Land Use Code project, Surface Waters and Hillsides
6. New or Other Business
7. Adjournment – Next meeting date Monday, **October 19, 2020**

*\*In Emergency Order #12, issued by the Governor pursuant to Executive Order #2020-04, which declared a COVID-19 State of Emergency, the requirement that a quorum of a public body be physically present at the meeting location under RSA 91-A:2, III(b), and the requirement that each part of a meeting of a public body be audible or otherwise discernible to the public at the meeting location under RSA 91-A:2, III(c), have been waived. Public participation may be provided through telephonic and other electronic means.*

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1 City of Keene  
2 New Hampshire  
3

4  
5 CONSERVATION COMMISSION  
6 MEETING MINUTES  
7

8 **Monday, August 17, 2020**

**4:30 PM**

**Remote Meeting via Zoom**

**Members Present:**

Eloise Clark, Vice Chair  
Art Walker  
Brian Reilly  
John Therriault  
Ken Bergman  
Councilor Robert Williams  
Steven Bill, Alternate  
Thomas Haynes, Alternate

**Staff Present:**

Rhett Lamb, Community Development  
Director/Assistant City Manager  
Corinne Marcou, Zoning Clerk

**Members Not Present:**

Alexander Von Plinsky, IV, Chair  
Andrew Madison

9  
10  
11 **1) Call to Order**  
12

13 Vice Chair Clark called the meeting to order at 4:30 PM and read the executive order  
14 authorizing a remote meeting: Emergency Order #12, issued by the Governor of the State of  
15 New Hampshire pursuant to Executive Order #2020-04. Pursuant to this order, members  
16 present stated that they were calling alone and stated their locations. Vice Chair Clark, Mr.  
17 Reilly, Mr. Walker, Councilor Williams, and Mr. Therriault called from their home addresses.  
18 Mr. Bill called from Poestenkill NY, Mr. Bergman called from Wellfleet MA, and Mr.  
19 Haynes' status was unknown and he listened only. Mr. Bill acted as a voting member.  
20

21 **2) Approval of Meeting Minutes – July 20, 2020**  
22

23 Mr. Reilly moved to approve the minutes of July 20, 2020, which Mr. Bergman seconded, and  
24 the motion passed by unanimous roll call vote.  
25

26 **3) Communication and Notifications**

27 **a. Draft NPDES Permit Letter from ARLAC**  
28

29 Vice Chair Clark asked Barbara Skuly to forward this letter so the Commission would know  
30 of ARLAC's actions. Mr. Lamb said this agenda item was a placeholder for discussion. Mr.  
31 Bergman said he could also share information on water treatment plant outflow from a former  
32 student and current Industrial Pretreatment Coordinator for the Keene Wastewater Treatment  
33 Plant, Eric Swope. Mr. Lamb saw no issue with sharing that public information and Vice

34 Chair Clark agreed that anything to help educate the Commission is useful. In response to a  
35 question from Mr. Bill, Mr. Lamb said that this matter was before the Commission only as  
36 informational about the role ARLAC plays in the permit review process; the Commission  
37 would not provide advice or recommendations.

38

39 **4) Informational**

40 **a. Subcommittee Reports**

41 **i. Outreach Subcommittee**

42

43 Mr. Lamb said he and Ms. Marcou spoke about how to further develop the Commission's web  
44 presence. He recalled from the previous meeting that both the Community Development and  
45 Parks & Recreation Departments have active Facebook pages where information can be  
46 shared as well. In response to the Subcommittee's request last month, he said that information  
47 to share publically should be sent to Ms. Marcou, who would work with Mr. Lamb to make it  
48 available across the various website and social media venues. Vice Chair Clark would prepare  
49 a first post, likely on pollinator-friendly plants for around the home. She invited  
50 photographers to share relevant images and welcomed information from other educators.  
51 Members agreed that subsequent posts centered on invasive species would be prudent.  
52 Councilor Williams offered to field questions on best practices with his experience as a web  
53 developer.

54

55 **ii. ARM Fund Subcommittee**

56

57 Nothing to report.

58

59 **5) Discussion Items**

60 **a. Airport CIP Wildlife Fence Project – Birding/Habitat Viewing along**  
61 **Airport Road**

62

63 As a follow-up to the Commission's July discussion, Mr. Bergman had a visit with Airport  
64 Director, David Hickling, scheduled the week after this meeting to tour and ensure that the  
65 most important wetland areas are clear to the Director. Mr. Therriault and Mr. Bill wanted to  
66 join the visit as well and requested further information when available. Mr. Bergman recalled  
67 that Councilor Steve Hooper has committed to supporting actions that come from the  
68 Commission as a solution develops for the Airport fence.

69

70 **b. Continued Discussion – Invasive Species Management**

71 [http://peterboroughopenspace.org/ewExternalFiles/Invasive\\_Plants\\_brochure.pdf](http://peterboroughopenspace.org/ewExternalFiles/Invasive_Plants_brochure.pdf)

72

73 Mr. Lamb said he and the Director of Parks, Recreation & Facilities, Andy Bohannon, would  
74 meet the week after this meeting to discuss what it would take to establish an "army" of  
75 volunteers who can participate semi-formally in invasive species management on City  
76 property. There have been past programs in which volunteers were "deputized" for this kind  
77 of work on City trails and parklands, such as an arrangement that Mr. Bergman mentioned  
78 with an individual for work in the Ashuelot River Park with Mr. Bohannon, though Mr. Lamb

79 was unsure the details of that agreement. Mr. Lamb would report back with more information  
80 at the next meeting.

81  
82 Councilor Williams was pleased and thanked Mr. Lamb for that update. The Councilor also  
83 spoke to the link above, which is a PDF from Peterborough NH about identification and  
84 control of invasive species. Councilor Williams thought the brochure was high quality and  
85 wondered if prints could be ordered or if customizations could be made for Keene because it  
86 includes the information he wants to share with homeowners; he hoped to find a good way to  
87 make use of it. Vice Chair Clark thought it could be a good first entry for the Commission's  
88 web presence. Mr. Lamb offered to contact the Peterborough Conservation Commission to  
89 gauge their interest in distributing that brochure through Keene's networks or to investigate  
90 other formats more amenable to a web setting than a PDF. Mr. Reilly could share print copies  
91 of the PDF and said he could connect Mr. Lamb with the principal person responsible in  
92 Peterborough – Francie Von Mertens.

93  
94 Mr. Bill suggested using the Commission's budget, which was barely used last year, to  
95 distribute or reinterpret this brochure for Keene. He also asked whether group volunteer  
96 activities would be permissible with Covid-19 and Mr. Lamb thought there were possibilities  
97 with safe social distancing and other guidelines.

98  
99 **c. Continued Discussion – Land Use Code Project, Surface Waters and**  
100 **Hillsides**

101  
102 Mr. Lamb recalled that at the last meeting he provided an overview of the project and changes  
103 proposed to the City's current Surface Water Protection Overlay District, which he would  
104 continue describing at this meeting in addition to changes to the Hillside Protection Overlay  
105 District.

106  
107 Surface Water Protection Overlay District:

108  
109 Mr. Lamb recalled that the Surface Water Protection Overlay District was adopted in 2013  
110 after lengthy discussions, largely as a subcommittee of the Conservation Commission working  
111 with Staff. It was established within the Keene Zoning Ordinance as a means to limit the use  
112 of private properties adjacent directly to surface waters and wetlands, specifically limitations  
113 to development, paving, and structures. The Ordinance was developed on the premise that this  
114 buffer area is intended to be in an undisturbed and natural condition. This buffer serves to  
115 capture, store and absorb rainfall, and act as a natural filter by capturing sediment, nutrients,  
116 and pollutants from runoff, which can improve water quality. It also provides shore land  
117 stability and shade with newly established vegetation, which can lower water temperatures,  
118 allowing water to hold more dissolved oxygen and support aquatic resource habitat. Initially, a  
119 100-foot buffer surrounding all surface waters in the City was proposed, which was later  
120 reduced to 75 feet in the Rural, Conservation, and Agriculture Districts, where minimum  
121 zoning lot requirements are upward of five acres and 30 feet in all other districts. This was  
122 with recognition that the City's urban center was already developed and a compromise was  
123 needed to allow that urban development within reason. This Ordinance requires a Conditional

124 Use Permit from the Planning Board for proposed uses/activities within this buffer area,  
125 which includes review and recommendation by the Conservation Commission.

126

127 In 2015, the Conservation Commission formed a subcommittee to review the Ordinance for  
128 inconsistencies and make recommendations for addressing those inconsistencies to City  
129 Council. This subcommittee focused on the list of surface water exemptions, which include  
130 the City's tax ditches. The subcommittee of the Conservation Commission proposed three  
131 amendments to the Ordinance, which were presented before the Planning, Licenses &  
132 Development (PLD) Committee of City Council in December 2016, at which time the PLD  
133 Committee recommended that the City review and consider these changes as part of the Land  
134 Use Code Update. The Conservation Commission asked that Staff:

- 135 1. Modify the definition of a buffer to remove the phrase, "in an undisturbed and natural  
136 condition," because sometimes the natural condition on a private property might have  
137 been altered already.
- 138 2. As written, certain surface waters were exempt from the buffer, particularly manmade  
139 ditches and swales because the City recognized these had been altered dramatically.  
140 The City used federal funds and assumed maintenance responsibility of some of these  
141 streams and built others known as tax ditches to create opportunities for agriculture,  
142 where for many years the City has mowed the edges to maintain many of those  
143 ditches. The Commission requested removing that exemption because it affected an  
144 extensive area of the City, and if tax ditches are surface waters, then they deserve the  
145 protection of a natural stream. These streams were exempt originally because from  
146 Staff perspective it seemed unfair and illogical to limit a person's ability to construct a  
147 gazebo (for example) next to the stream on their property when the City was mowing  
148 the banks of tax ditches.
- 149 3. When new subdivisions are proposed, any wetland area flagged by a wetland scientist  
150 on the site could not be included in minimum lot size density for that property from a  
151 zoning standpoint, so that wetland areas could not count toward the density of the lot.

152

153 Mr. Lamb referenced a summary of remaining changes proposed to this Ordinance in the  
154 Land Use Code Update in the meeting packet.

155

156 Mr. Bergman noted that some content was confusing, such as tax ditches. Mr. Lamb clarified  
157 that the current Ordinance exempts any manmade stream and therefore if the City is  
158 maintaining tax ditches, it was illogical to limit someone's use or development adjacent to  
159 those ditches on private property. Mr. Bergman questioned whether those changes proposed  
160 by the Commission were included in the current Ordinance and Mr. Lamb replied in the  
161 affirmative. Mr. Bergman questioned whether the exemption language for tax ditches also  
162 listed collecting ponds for rain runoff and asked if those would be treated the same as tax  
163 ditches. Mr. Lamb said that the manmade swales or storm water retention systems continue as  
164 exempt because they are built usually for the purpose of managing storm water coming from  
165 development. Mr. Bergman referred to the manmade water retention at places like Monadnock  
166 Marketplace and Mr. Lamb said those ditches remain exempt in the proposed Ordinance  
167 updates because they are constructed for water quality improvement from a development and  
168 it seemed illogical to Staff to impose buffer restrictions; Mr. Bergman said unless the

169 development were required to mitigate wetlands effects elsewhere, which Mr. Lamb thought  
170 was not likely through the wetlands permit process anyway.

171  
172 Mr. Bill referenced blue and yellow highlights throughout the document and Mr. Lamb  
173 thought those were only for Staff's drafting purposes. Mr. Bill asked whether the difference  
174 between a 30-foot and 75-foot buffer was based more on topography or land use. Mr. Lamb  
175 said land use; the 30-foot buffer respects a denser urban setting. Mr. Bill said he did not see  
176 power line corridors in the list of permitted uses and Mr. Lamb said that most regional power  
177 lines are not subject to City control through zoning.

178  
179 Vice Chair Clark referred to the requirement that all surface waters on a property be deducted  
180 from the calculation for minimum lot size, which she thought might be a detriment to  
181 development on a property near wetlands. Mr. Lamb said this was an interesting discussion  
182 and he thought the Commission's logic was that it was unlikely those areas would be altered  
183 significantly for any development because of state wetland permitting requirements. He  
184 thought it was a policy decision that would get input moving forward from many perspectives.  
185 He said it was really about protection of resources versus greater use of a property by an  
186 individual. City Council is still hearing input on the many sides of this issue. Vice Chair Clark  
187 referenced the document that stated, "No changes are proposed that would alter the original  
188 intent and meaning of this Ordinance or that would impact the standards for review," and said  
189 the proposed changes would do both of those things, leaning more toward development than  
190 conservation. Mr. Lamb said that if further discussion is needed, the Commission could make  
191 recommendations on this draft at its September meeting.

192  
193 Hillside Protection Overlay District:

194  
195 Mr. Lamb said this Ordinance was developed largely in response to some serious flooding  
196 from 2005-2012 precipitation events that exceeded the 100-year flood patterns, which  
197 highlighted drainage concerns on the valley floor and lack of proper storage higher in the  
198 watershed. Like the Surface Water Protection Overlay District, this Ordinance was also  
199 developed with a goal to preserve the capacity and quality of those natural systems. This  
200 Ordinance was developed in 2009 and amended in 2010 to protect steep slopes from  
201 development and therefore the major potential effects of erosion on drainage. There are two  
202 categories of steep slopes, first graded 15-25%, and second graded greater than 25%. The goal  
203 was to ensure that development avoid the steepest parts of the property or otherwise require a  
204 Conditional Use Permit from the Planning Board with Conservation Commission input for  
205 any removal of vegetation, grading of slopes, erection of buildings, addition of impermeable  
206 surfaces, installation of sewage disposal systems, and/or removal of native soil impacting  
207 greater than 20,000 sf of precautionary slope area on one lot.

208  
209 Mr. Lamb said the changes to this Ordinance were less substantive than the previous and he  
210 was unaware of the Conservation Commission commenting at any time on this Ordinance. He  
211 did refer to Staff's recommendation to eliminate the current Planning Board Site Plan and  
212 Subdivision Regulations specifying that all prohibitive slopes (greater than 25%) and half of  
213 precautionary slopes (15-25%) be deducted from the calculation of minimum lot size; this  
214 mirrors the deduction of surface waters from minimum lot size in the Ordinance discussed

215 previously. The argument is that this requirement creates a penalty to be unable to count that  
216 land area toward the zoning density requirement, with the assumption that the Ordinance itself  
217 would prevent development of those slopes.

218  
219 Vice Chair Clark noted that she was secretary of the committee that developed the Hillside  
220 Protection Overlay District and she said the members spent hours debating these points and to  
221 make the changes Mr. Lamb described would go against the work of many people and she  
222 was not yet comfortable with the rationale.

223  
224 Mr. Bill said the consideration of slopes seemed to focus on flooding but he questioned failure  
225 of the slopes themselves; for example, the slope failures at the apartments at Chapman Road  
226 and Eastern Avenue. Mr. Lamb thought slope failure as not the primary motivation and he  
227 was unsure the history of slope failures in Keene. He was familiar with the example  
228 mentioned and to his knowledge that was the only instance of an issue like that. Therefore, the  
229 focus of this Ordinance was the impact of development on drainage patterns lower in the  
230 watershed. Mr. Bill noted that the Ordinance mentions a 50-year flood over a 24-hour period  
231 and wondered if more prudent to specify an amount of accumulation over a time period and to  
232 also take into account the permeability of material; the 50 and 100-year floods are now  
233 ambiguous with climate changes. Mr. Lamb said that there is a precipitation amount  
234 equivalent for 100-year storms that can be used to calculate 50-year and the City uses a  
235 parallel to that in almost all major commercial developments to calculate a 25-year event for  
236 managing storm water on the site. He recognized that periodicity of these events is changing.

237  
238 Mr. Reilly requested an example of how removing wetland area from minimum lot size would  
239 affect zoning density. Mr. Lamb said there is a five-acre minimum lot size in the Rural Zone  
240 today and so an existing 10-acre lot could only be subdivided into two five-acre lots if there  
241 were zero wetlands on the property. The argument for changing that standard is that the  
242 wetland would already be protected in that scenario and therefore a potential double jeopardy  
243 exists for how land can be subdivided.

244  
245 Mr. Bill said there are many challenges to defining minimum lot sizes as ways to exclude  
246 certain demographics from inhabiting areas and asked whether there would be challenges in  
247 how we are defining these matters. Mr. Lamb was unsure from a legal perspective but  
248 believed that calculating density through lot size is still a valid way of managing/planning a  
249 town. Unlike some cities, Keene is not dominated by large-lot zoning and he thought that our  
250 valley floor was zoned in a way to allow diverse market rate housing in an affordable  
251 category.

252  
253 Vice Chair Clark noted the complexity of these documents and all Commission members  
254 agreed to postpone action until the September meeting. Mr. Lamb and Senior Planner Tara  
255 Kessler are happy to speak by phone with Commission members in the interim. Members can  
256 also send questions via email directly to Mr. Lamb, who would send answers to the whole  
257 group.

258

259 **d. Greater Goose Pond Forest Management Plan**

260



261 This agenda item was a placeholder for future discussion, when Director of Parks, Recreation  
262 & Facilities, Andy Bohannon, would be invited to provide a written or oral update on current  
263 activities. Mr. Bohannon is the best person to answer questions on timelines for implementing  
264 those management practices.

265

266 **6) New or Other Business**

267

268 The Source to Sea Clean-Up event for the Ashuelot River and Beaver Brook is proceeding on  
269 September 26 and the organizers feel confident that they can do so safely with masks and  
270 social distance. They seek sponsors and the Conservation Commission has participated in the  
271 past.

272

273 Mr. Therriault recalled that two meetings ago the Conservation Commission recommended to  
274 City Council that Keene become a Bee City USA but there was yet to be action at the Council  
275 level. Mr. Lamb would prepare a resolution to Council and send it to Mr. Therriault for  
276 feedback.

277

278 Vice Chair Clark requested that Staff consider allowing video for future Zoom meetings and  
279 other members agreed. Mr. Lamb is happy to coordinate based on the video connections of  
280 members and the degree of screen/document sharing during the meeting. This is possible via  
281 smart phone. Vice Chair Clark, Mr. Lamb, and the Chairman would discuss moving forward  
282 with the best option.

283

284 **7) Adjournment**

285

286 Hearing no further business, Vice Chair Clark adjourned the meeting at 5:43 PM.

287

288 Respectfully submitted by,  
289 Katryna Kibler, Minute Taker  
290 August 24, 2020

291

292 Edits by Rhett Lamb, ACM/Community Development Director

293 Reviewed by Corinne Marcou, Admin. Assist.

294

295