

**City of Keene**  
**New Hampshire**

**CONSERVATION COMMISSION**  
**MEETING MINUTES**

**Monday, September 21, 2020**

**4:30 PM**

**Remote Meeting via Zoom**

**Members Present:**

Alexander Von Plinsky, IV, Chair  
Eloise Clark, Vice Chair  
Art Walker  
Ken Bergman  
Andrew Madison  
Councilor Robert Williams  
Steven Bill, Alternate (Voting)  
Thomas Haynes, Alternate (Non-Voting)

**Staff Present:**

Rhett Lamb, Community Development  
Director/ACM  
Andy Bohannon, Director of Parks,  
Recreation & Facilities  
Corinne Marcou, Administrative Assistant

**Members Not Present:**

Brian Reilly

**1) Call to Order**

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

**2) Approval of Meeting Minutes – August 17, 2020**

Revision: Line 181, change the word "development" to "environment."

Mr. Bergman moved to approve the minutes of August 17, 2020 as amended, which Mr. Walker seconded, and the motion passed with a unanimous roll call vote.

**3) Communication and Notifications**

No updates.

**4) Informational**

**a. Subcommittee Reports**

**i. *Outreach Subcommittee***

No updates.

**ii. *ARM Fund Subcommittee***

No updates.

**5) Discussion Items**

**a. Greater Goose Pond Forest Stewardship Plan – Andy Bohannon, Director of Parks, Recreation & Facilities**

The Director of Parks, Recreation & Facilities, Andy Bohannon said he needed to begin the City process to solicit bids and begin the woodlot management portion of the Greater Goose Pond Forest Stewardship Plan, which he thought was the first priority for the Commission. Woodlot management and timber harvesting are possible ways to generate revenue and pay for other priority projects in the Stewardship Plan, like trails. The timber market was impacted badly by Covid-19 and now could be a good time to start looking at that part of the plan again.

Vice Chair Clark asked about boundary marking. Mr. Bohannon said that is the most time consuming activity and therefore expensive priority from the Stewardship Plan. Regardless, he said that hiring someone for this work is especially important because the City acquired and incorporated two new parcels recently. Mr. Bohannon could seek a quote for this work and then plan accordingly.

Mr. Bergman said the Stewardship Plan called for timber harvesting staged over many years on different tracts and asked whether a forester contract would be for the initial stage only or for all stages. Mr. Bohannon said there would be an initial forester contract to ensure the process and results are what was intended before contracting with someone for multiple stages.

Mr. Walker asked whether the forester for woodlot management could be incorporated into the full timber harvest contract. Mr. Bohannon would discuss that possibility with Mr. Lamb and the Community Development Department to determine whether the boundary marking could be paid for in the timber harvest process. This would align with the ultimate goal for timber harvesting to pay for other efforts in the Stewardship Plan.

Mr. Bohannon said he is working with the New England Mountain Biking Association (NEMBA) on many trails projects outlined in the Stewardship Plan. NEMBA members posted signs on a few trails that lead to private property to deter entry and warn of hunting season. Part of the Goose Pond Dam project also resulted in two new kiosks at the new parking lot gate and the dike with trail information. Mr. Bohannon said that trails work was planned initially in the

Capital Improvement Program (CIP) for the first year's work but it had to be pushed out a few years. Potential revenue from timber harvesting could generate funds or combined with a Recreation Trails Grant or be otherwise programmed into the budget, because all Keene trails have needs.

Mr. Bill questioned whether the Commission would have an opportunity to review sites before they are logged. Mr. Bohannon said he would work with the Community Development Department to arrange that before the next meeting. Mr. Lamb recalled that the Stewardship Plan also suggests creating an ongoing stewardship committee and he said that the next six months to one year would be a good time to organize that more dedicated group to follow this work as it progresses. There would be opportunity for a Commission member to liaise with that committee. Mr. Bohannon agreed and said that stewardship committee would be a good way to begin vetting bids on the project.

Mr. Bergman requested that when new maps are created, that their distribution not be limited to kiosks but also available on the City websites and in a mobile-friendly version. Mr. Bohannon said that [www.keeneparks.com](http://www.keeneparks.com) redirects to a City webpage, where there is a menu for Parks & Trails. He works with the City's GIS Technician, William Schoefmann, who has made available mobile-friendly (not printable) maps of Keene's parks and trails, and so any new trails could be added in the same fashion.

Mr. Bill recalled that parks and trails maps used to be available at the Recreation Center. Mr. Bohannon said those maps are now all available online and there are only limited copies available from his office at the Recreation Center. Mr. Bohannon said this discussion was a good reminder that not all citizens seek their information digitally and he would work with Mr. Schoefmann to get more printed.

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

Mr. Bohannon continued providing updates on the possibility of training residents to help manage (without chemicals) invasive species that are widespread across the City, with some City parks more problematic than others. Mr. Bohannon believed it was possible to train volunteers to clearly identify invasive species so that when walking along City properties/rights-of-way, they are authorized to remove those plants by hand. He thought such an effort fit the City's Spirit of Place initiative. The Chairman thought what Mr. Bohannon described was exactly what the Commission sought.

Mr. Bohannon thought in-person socially distant trainings were possible – and preferable for attendance and engagement – and referenced a recent Staff training by a master gardener. He also suggested possible trainers through the University of New Hampshire Extension. Mr. Bohannon suggested leading the public training in Ashuelot River Park, and said he could schedule something for an upcoming weekend or an evening around the same time of this meeting. Mr. Bergman suggested holding the training before any crucial identification aspects of

the plants fall beginning in October; the Chairman agreed that sooner is better. Vice Chair Clark said that invasives tend to unfortunately hold their leaves longer than native species and so identification should be uninhibited through October. Mr. Bohannon would arrange within that timeframe.

**c. Continued Discussion – Airport CIP Wildlife Fence project – Birding/habitat viewing along Airport Road**

Mr. Bergman was recently accompanied by Mr. Therriault to tour areas along Airport Road with David Hickling, Airport Director. The tour was mostly comprised of the area opposite Runway 14-32 at the bend in Airport Road, where the Commission toured last fall. Mr. Bergman said the Airport Director reiterated his desire to minimize wetland impacts and his goal to exclude wetlands, and therefore wildlife, from the airport fence enclosure. The Airport Director also wants to move this fence project sooner in the CIP to address the problem of wildlife on the runways as soon as possible.

Mr. Bergman continued explaining that the primary challenge is the end of the alternate runway, which is closest to the marsh and Airport Road. The Airport Director told Mr. Bergman that his colleague at NH Department of Transportation (DOT) assured him that precedents exist for allowing fences to impinge upon the runway transition zone surrounding the object-free zone. Ultimate approval of any such fence design would await review of a grant application to the regional Federal Aviation Administration (FAA) and the application would need to justify that impinging on the transition zone would protect wetlands, that the Conservation Commission supports the plan, and that the proposed fencing plan would still protect the runway from wildlife incursions. Without such a waiver from the FAA, the fence at the end of the alternate runway would need to extend far into the wetlands.

Mr. Bergman reported that he would meet again with the Airport Director on September 24 to walk from the C&S hangar to the end of the runway. The goal of this tour is to begin establishing the distance from the edge of the marsh to the end of the runway pavement, as well as to assess the grade or decline leading from the grassland above the marsh to the end of the marsh. The Airport Director thought it best to conduct this tour on foot before seeking drone footage. Mr. Bergman said the Airport Director also believes that an eight-foot fence would suffice as opposed to the 10-foot fence proposed in the Airport Master Plan. Mr. Bergman said the Airport Director also expressed that constructing a shorter fence might be possible within the object-free zone under certain conditions with FAA approval. According to the Airport Director, this segment of the fence that would parallel Airport Road and the far edge of the runway, could possibly be as low as a five feet, with vertical extensions that would yield easily to aircraft impact (posing minimal hazard to the aircraft) but constitute an effective visual deterrent to wildlife.

Mr. Lamb thanked Mr. Bergman for that great summary of the conversation with the Airport Director. The Airport Director anticipates construction beginning in FY-22, which would mean a

design phase beginning in August 2021, and he would ensure a Commission member liaises with that design committee. Despite the possible caveats and challenges to these goals that could arise from the FAA and/or NH Department of Environmental Services in this process, Mr. Lamb still believed this communication with the Airport Director was positive as it confirmed the Director's attention and interest. The Commission has advocated properly for the subject through the great work of Mr. Bergman and others. Mr. Lamb encouraged more meetings with the Airport Director as needed to ensure the Commission is involved formally when the design phase begins. The Commission thanked Mr. Bergman for this encouraging update.

**d. Continued Discussion – Land Use Code Project, Surface Waters and Hillside**

Mr. Lamb summarized last month's healthy discussion on this topic. The Land Development Code is in the final drafting stage, with revisions to two sections in Zoning – one on surface waters and the other on hillside – that the Commission has been briefed on since the beginning because the contents are within this Commission's purview. Specifically, a subcommittee of the Conservation Commission drafted the Surface Water Protection Ordinance in 2012-2013 and proposed amendments to it in 2016. Additionally, the Commission has been involved actively with the Hillside Protection Ordinance. Mr. Lamb said that the Commission's efforts on these ordinances were to protect surface waters, wetlands, and natural systems that deter degradation of these resources and ameliorate flooding events. Mr. Lamb said both of these ordinances developed from Keene's experience of more frequent and intense flooding events that caused great damage, primarily on the valley floor. He said those events reinforced the importance of protecting the natural systems that deter runoff and flooding.

Mr. Lamb explained that in 2016, a subcommittee of the Conservation Commission proposed amendments to the following two sections of the Surface Water Protection Ordinance (SWPO). The first amendment was to eliminate from the SWPO the exemption of tax ditches, or manmade surface waters (i.e., streams, retention ponds, and drainage and infiltration systems). The second amendment was to eliminate from the SWPO the exclusion of wetlands from minimum lot size requirements for subdivision. Mr. Lamb revisited both concepts that he said are challenging to explain.

Many areas of the City have so called "tax ditches," which are streams that have been dredged and straightened to increase storm water and flood flow, primarily to enhance drainage opportunities for improved agriculture; for the same reason, some agricultural fields also had "lateral ditches" traversing them. There is a history of these stream manipulations across the City for hundreds of years. Through a relationship with the National Resource Conservation Service (NRCS), which produced the tax funds to build the tax ditches, the City was obligated to maintain the ditches – to dredge them when the very steep sides slough in or to maintain the edges by removing woody vegetation and cutting down trees that could fall in a storm and block the drainage system. The City maintains these tax ditch edges with a flail mower so as to prevent stream degradation.

Tax ditches are no longer used primarily for agriculture because the NRCS obligation lifted in 2015. The City has continued maintaining the streams because they are part of the City's drainage infrastructure for developments that occurred around these largely flat areas, where floods can cause more damage. Mr. Lamb said the logic for continuing to mow the tax ditches beyond that obligation, even though it might have negative environmental impacts, was that those areas of the watershed are flat, where excess water could damage neighborhoods and businesses, and extra drainage is needed. While it was clear that the mowing practice should be phased out over time for the sake of water quality, it did not seem right to tell a property owner that they could not construct a gazebo, for example, in the buffer around a surface water on their property while the City can flail mow stream edges in that same buffer. Therefore, the proposed amendment was not acted on in 2016 and was referred by City Council to the Land Use Code update process.

Mr. Lamb shifted topics to explain the logic of the 2016 proposed amendment to eliminate from the SWPO the exclusion of wetlands from minimum lot size requirements for subdivision. He explained that in the rural district, 10 acres are needed to subdivide and create two five-acre minimum sized lots. Under the current SWPO, even the smallest wetland area must be deducted from the minimum lot size required by Zoning and therefore would exclude a 10-acre parcel with a wetland from subdivision. In 2016, the Conservation Commission recommended eliminating this restriction. Mr. Lamb believed the Commission's logic was that the wetland is already protected reasonably by the NH Department of Environmental Services (DES) Wetlands Permit and Keene Planning Board Conditional Use Permit processes, and it seemed questionable to penalize a property owner further if the wetland is being protected sufficiently.

Mr. Lamb said that whether the Commission provides comments on this matter, the Joint Planning Board & Planning, Licenses & Development Committee will move forward with final recommendations. In the most recent meeting with the Joint Committee, the group was leaning toward leaving the tax ditch portion of the ordinance as is, whereas the group agreed with the Commission's 2016 recommendation to allow wetlands to count toward minimum lot size. The Commission needed to make any recommendations at this meeting.

Councilor Williams questioned how tax ditches were being defined in the Land Development Code and posited hypothetically whether these streams would be protected still if returned to their natural state 75 years from now. Mr. Lamb said that tax ditches are defined in the ordinance as the areas that were under agreement previously with NRCS. The City has maps of both the traditional tax ditch systems and areas such as Beaver Brook, which is channelized between Spring Street and south of Roxbury Street. Mr. Lamb said there is a balance of improving the streams and encouraging development. Mr. Lamb replied in the affirmative to the Councilor's latter question, stating that the ordinance could be revised in the future should these tax ditches be improved over time toward their more natural form. Councilor Williams said it would be good to have a process for retiring logical tax ditches from that status and through stages back toward wetlands protection. Mr. Lamb said there are potential legal implications, for example in west

Keene, where residents have come to depend on this drainage and the City's maintenance. Mr. Lamb thinks the City should be looking at better ways to maintain tax ditches that align with proper buffer management.

Vice Chair Clark said that NRCS would be likely open to a demonstration project on trying to return tax ditches to more normal stream morphology, which she said could be as effective as flail moving in terms of water retention. Mr. Lamb agreed that NRCS and the Environmental Protection Agency have both expressed interest in such an effort.

Mr. Bill questioned if Beaver Brook across Baker Street is considered a tax ditch and Mr. Lamb said it is not considered such like the others, though it is manmade. Mr. Bill asked whether tax ditch maintenance includes removing beaver dams and Mr. Lamb said yes, annually.

The Chairman expressed concern that if the exemption for tax ditches is allowed and a precedent is set for construction in the 30-foot buffer, there would be additional structures remaining in that buffer if the City later finds better options for stream restoration. Mr. Lamb said that big new structures in the floodplain are not likely where compensatory storage places a premium on development. He thought more paved development like driveways and parking lots are more likely. Vice Chair Clark considered west Keene more hopeful than Beaver Brook for stream restoration. Mr. Lamb agreed. The Chairman said we cannot get to a better scenario if we continue to develop and pave within these buffers that provide a future opportunity to create more natural systems; he was concerned with causing a future disservice.

If the buffer zone were re-imposed, Mr. Bergman questioned whether there would be other ways to maintain tax ditch bank stability and minimal flow. Mr. Lamb said it was a bigger management questions of how to return streams to their natural states. Mr. Bergman asked if significant changes have occurred in buffer zones since the 2016 decision. Mr. Lamb said ordinance had only been applied a few times, likely because it is working and development stays out of buffer. There are very few Conditional Use Permit issues for buffer alteration.

Mr. Bill asked whether good evidence exists that tax ditches are effective in flood control, noting that vegetation removal generally increases erosion and it might be beneficial to stop mowing certain areas. Mr. Lamb did not know of specific evidence but said that when Beaver Brook was dredged in 2014/2015, people reported less severe water pooling from smaller storms than previously in the Carpenter Street and Church Street neighborhood.

To avoid misuse of the tax ditch system in the future, the Chairman wanted to see a clear list of what tax ditches are and are not. Mr. Lamb was unsure such a list existed but he displayed a map of the City's tax ditch today including: Black Brook floodplain and laterals that join with White Brook to Ash Swamp Brook the Monadnock Marketplace, both sides of Production Avenue, Key Road, Tannery Brook, Winchester Street south of RT-101, and adjacent to the Rail Trail off Victoria Street. While there was no official definition of a tax ditch, the City has records of where tax ditches have been maintained since the 1800s.

Mr. Bergman quoted lines 149-151 in the August 17, 2020 minutes that state, "When new subdivisions are proposed, any wetland area flagged by a scientists on the site could not be included in minimum lot size density for that property from a zoning standpoint, so that large wetland areas could not count toward the density of the lot." Mr. Lamb said that was the Commission's 2016 proposal. Mr. Bergman cited confusion between the wording in those minutes and Mr. Lambs explanation at this meeting. Mr. Lamb said perhaps for clarity the minutes should have read "eliminate the current requirement that any wetland area flagged by a scientist on site could not be included..." No such amendment to the minutes was made.

The Chairman cited significant misgivings about exemption of the tax ditch system. Mr. Lamb said he found it difficult to tell property owners they cannot put a structure on their property in that buffer when the City has such activity there, as an issue of fairness. He added that unless the tax ditch is in an urban areas, most are in rural residential areas, where development in the buffer would be small.

Mr. Lamb clarified that if the Commission made no recommendation, the Joint Committee would move forward maintaining tax ditches as exempt and would eliminate the exclusion of wetlands from minimum lot sizes. The Chairman favored no recommendation.

Mr. Walker said he agreed with Mr. Lamb in the short term but was concerned that without empirical evidence of their benefit, he questioned whether the City is maintaining them because they need to or just because they always have.

Mr. Madison said tax ditches serve as storm water conveyance and their maintenance could prove increasingly important with continued big storm events and during those events, he said a gazebo would be inconsequential compared to a 30-car parking lot.

Mr. Bill questioned slopes as related to minimum lot size. Mr. Lamb said half of slopes graded between 15-25% can count toward minimum lot size, and no slopes graded above 25% can count toward minimum lot size in the Hillside Protection Ordinance. Both rules are proposed to be eliminated in the Land Development Code and in both cases, the intent is to rely on ordinance itself that already places limitations on what is allowed in these resource areas.

In response to Mr. Bergman, Mr. Lamb did not think necessary to make any motion given that there appeared to be consensus obvious in this meeting's minutes.

Mr. Bill suggested the Commission should focus on what the City should do with tax ditches in the long term. He also suggested a tax ditch definition in the SWPO itself.

## **6) New and Other Business**



Vice Chair Clark alerted the group to the NH Association of Conservation Commissions' annual meeting on November 7 from 8:00 AM-12:00 PM entirely via Zoom. Two different seminar options with a \$35 fee for Conservation Commission members and in past, Vice Chair Clark recalled that the Commission paid for members to attend. If all members wanted to attend, it would cost \$250.

Vice Chair Clark moved that the Conservation Commission pay the \$35 fee for each individual Commission member that wishes to attend the 2020 NH Association of Conservation Commission's annual meeting. Mr. Bergman seconded the motion, which passed with a unanimous roll call vote.

Vice Chair Clark announced the NH Association of Conservation Commissions' Lunch and Learn Zoom seminars that she would forward via email, with upcoming topics to include drinking water, protecting wetlands, and proven ways to engage community.

Mr. Bergman will resend information on Ashuelot River flow to Mr. Lamb for disbursement to the Commission.

Mr. Madison reminded the group of the annual Ashuelot River Clean-Up on September 26.

**7) Adjournment – Next Meeting Date: Monday, October 19, 2020**

Everyone should be on lookout for invasive species training information from Mr. Bohannon.

There being no further business, the Chairman adjourned the meeting at 6:12 PM.

Respectfully submitted by,  
Katie Kibler, Minute Taker  
September 27, 2020