

City of Keene
New Hampshire

CONSERVATION COMMISSION
MEETING MINUTES

Monday, December 16, 2019

4:30 PM

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

Members Present:

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

Staff Present:

Rhett Lamb, Community Development
Director/Assistant City Manager
Tara Kessler, Senior Planner

Members Not Present:

Councilor George Hansel
Steven Bill, Alternate

1) Call to Order

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

2) Approval of Meeting Minutes – October 21, 2019

Mr. Walker moved to approve the minutes of October 21, 2019, which Mr. Reilly seconded.

Revisions:

- Correct any instances of “Mr. Bergan” to “Mr. Bergman”
- Page 2 of 5: Ashuelot Local Advisory Committee should be changed to Friends of Open Space in Keene.
- Page 3 of 5: “He noted suggestions in the AMP for two gates in the fence to allow access to the other side for birding, which Mr. Bergman thought was possible; activity on the other side of the fence, however, could cause shy species to disappear from view,” should be replaced with, “The report that Mr. Bergman submitted to the Conservation Commission suggested the introduction of gates in the fencing.”
- Page 3 of 5: “Mr. Bergman noted another suggestion in the AMP to construct platforms and blinds for birding and recreation,” should be replaced with, “Mr. Bergman's report also suggested the construction of blinds or hides to allow birding and photography.”
- Page 4 of 5: “Mr. Bergman agreed that he has camera trap information on many species there, including turtles crossing Airport Road from one wetland to another,” should be replaced with, “Mr. Bergman agreed that he has camera trap information on many species there and has images of bitterns crossing the road and has often seen turtles cross the road.”
- Page 5 of 5: the name Rubnieer should be changed to Rousmaniere.

The Conservation Commission voted unanimously to approve the minutes of October 21, 2019 as amended.

3) **Informational**

a. **Subcommittee Reports**

i. *Outreach Subcommittee*

Mr. Haynes reported that he, Ms. Clark, and Mr. Reilly met recently to discuss next steps. The anticipated fall walk at Goose Pond was postponed because it was not advertised through the Parks and Recreation Department in time. Jeff Littleton was okay postponing in favor of a possible springtime activity at the Pond.

Ms. Clark has offered to lead a Tracks and Trees winter walk to look for viable animal tracks and to identify tree bark and buds in the winter. She anticipates this activity happening the first weekend in February.

The subcommittee also discussed a possible Tap to Toilet tour of where water comes from in Keene including the Waste Water Treatment Plant (WWTP). Jim Rousmaniere is writing a book about the region's water and could provide an overview. Mr. Bergman suggested the tour could visit Martell Court before the WWTP because it is an area of concern. Mr. Lamb said that Martell Court is more so the heart of the system whereas the WWTP is as a point of reliability, redundancy, and cost.

Steven Bill also offered to lead a geology activity and the subcommittee considered asking him to lead a walk on Beech Hill, possibly next fall when the leaves have fallen and the outlook most open.

The City's Industrial Water Pretreatment Coordinator, Eric Swope, invited the Commission to participate in the annual NH 4th Grade Science Fair celebrating water. The Fair is a contest between elementary schools' water projects and the top two projects progress to the State Fair. This year, the event is at Keene State College (KSC) and Commission members were invited to lead some hands-on activities. Ms. Clark happily offered to participate. Mr. Bergman recalled that Mr. Swope has great musical pieces available on YouTube about water conservation, such as what cannot be flushed.

Mr. Haynes reported that he is now a member of the Ashuelot River Park Advisory Board, which met last in November and discussed current initiatives:

- Bartlett Tree is creating signs for trees in the arboretum with QR codes and the tree species name, which can be scanned using a smart device to learn more detailed information about that specific tree.
- Bat houses are installed in the park and the Board is looking for educational opportunities on bats.
- The Board is working with the Conway School of Landscape Design graduate students to rethink a future vision for the park.

Chair Von Plinsky questioned if the Conway School also did a project when the park was first established. Mr. Lamb said that project was for the former Carpenter Field, now the Patricia T. Russell Park.

ii. *Aquatic Resource Management (ARM) Fund Subcommittee*

Chair Von Plinsky reported that he and Mr. Bergman met as a part of this Subcommittee, which might be renamed as the Land Prioritization Subcommittee. The goal is to identify large areas of City land that are ideal for conservation, investigate smaller parcels of priority land therein, and report to

the Commission in the next few months. Ms. Clark asked if the Subcommittee was using the NH Wildlife Action Plan (WAP), which is one of many important resources available. Chair Von Plinsky agreed there are many resources but noted that some challenges are administrative, such as understanding how a parcel is zoned.

Mr. Bergman said the Subcommittee is off to a good start and they are learning a lot. He asked for clarification of the mechanism through which the Commission hopes to achieve land protection, whether by conservation easement or land purchase. He recalled areas like Concord Hill with some level of protection but that are still zoned as agriculture or rural; Mr. Lamb said there are no plans to change those two zones. Mr. Bergman was unclear whether the Subcommittee should prioritize areas the City does not need to purchase; meaning, would it be a barrier against protection if the City must purchase a parcel. Chair Von Plinsky thought the different funding sources the Commission is preparing for would have different rules and qualifications. He imagined this that identifying rough areas of City land would be more beneficial than getting into the weeds now and later learning the money the Commission seeks has a complicated stipulation. He suggested documenting why the biogeographic elements of the properties are important. Ms. Clark agreed that there should be criteria. Chair Von Plinsky hopes to discuss findings with the Commission no later than the end of February.

Mr. Reilly asked if any existing land trusts in the region (e.g., Harris Center or Monadnock Conservancy) conduct this sort of pre-work, or if they wait until property/funding opportunities arise. Chair Von Plinsky said that in his experience, such organizations have land priorities established in advance because funding opportunities arise and disappear very quickly. He recalled that the Commission identified an ARM project a few years past and if there had been a prioritized land list like this one, the Commission would have been in a better position to apply. Mr. Reilly asked if those organizations would share information about the Keene properties that they have already identified to save the Commission some work. The Chairman said that he imagines they would and he will inquire. He noted, however, that they might not have as much specific information for Keene because they serve the entire region. Mr. Lamb added that the Conservancy, for example, works on larger properties with characteristics requiring the attention of a conservation entity like theirs; they tend not to filter out smaller parcels that might be more specific to Keene, which is where the Commission could step in. While the Commission should work with the Conservancy, the City might have interest in land that they do not. Ms. Clark added that the Conservancy is seeking a lot of agricultural land, such as a recent 27 acres in Walpole. Mr. Bergman added that south of the airport in Swanzey, the Conservancy protected a farm with adjacent riparian woodlands a few years past. Ms. Clark recalled that the Friends of Open Space have made lists of priority lands in the past, but the challenge often is to find willing landowners.

Ms. Clark also noted that ARLAC is following the taxiway expansion at the Keene Dillant Hopkins Airport. In choosing the expansion option that the Conservation Commission advised against, there could be more than \$300,000 in ARM fund penalties, but she was unsure when that would enter the funding stream. Mr. Lamb thought the taxiway project was still a few years out. Mr. Haynes said it is good to know in advance so the Commission can have a project ready to use those funds locally, which ARM prefers. Beyond land conservation, Mr. Lamb said the Commission could also consider mitigation projects. The City was recently contacted by the consultant for Liberty Utilities, which is finally pursuing their project at the end of Production Avenue and so they will come forward soon through the NH Wetlands Permit process and City's Site Plan Review process. Their consultants contacted the City about possible mitigation sites to pursue within the City, thus avoiding the ARM fund process. That project now has a potential funding source if the City wants to pursue it and all agencies move forward.

Mr. Bergman asked if the taxiway extension is the same as the runway extension he recalled in the Airport Master Plan (AMP). Mr. Lamb said the taxiway is different from the Runway 14-32 extension called for in the AMP. Mr. Lamb said that only one end of Runway 14-32 can be extended toward the road to the WWTP. Mr. Bergman asked what the magnitude of the obstruction would be. Mr. Lamb replied that he has a hard time believing the runway would be extended with federal funds and if that were the case, it would never be extended by the City acting alone. Other airport projects will likely take priority.

Mr. Haynes recalled a few years past when the Commission had a land prioritization project and considered what land values to rate; they are in the record to update as necessary. Ms. Clark recalled that before her term ended, Councilor Jan Manwaring developed something similar on her own time. Mr. Haynes agreed that the Commission should not need to begin from scratch. Chair Von Plinsky said an added benefit of this process is becoming more familiar with some areas of the City that he does not personally drive past daily.

b. Project Update: Unified Development Ordinance (Building Better Together)
<https://www.keenebuildingbetter.com/>

Mr. Lamb recalled that the funds were dispersed one year ago to begin this project, which was prioritized in the 2010 Keene Comprehensive Master Plan. With the help of planning consultants, staff has been reviewing all of the City's land use ordinances, like the Planning Board and Zoning Board standards. This includes review of all rules that establish how land and roads are developed in Keene, including minor details like the Historic District and issuance of Building Permits and the Floodplain Ordinance. Therefore, this review overlaps with Commission interests and Mr. Lamb wanted all to be aware that the revised documents will be introduced to the public likely in March/April 2020; members can follow the project more closely at the link listed above. At the January or February meeting, Mr. Lamb will provide a more detailed description of the changes so the Commission is prepared when the document enters the review process.

Mr. Bergman recalled public hearings about the downtown zoning but not the whole City and asked the difference from this project. Mr. Lamb said that one aspect of the Unified Development Ordinance is that there is no change to the fundamental zoning pattern across the City; if you live in a rural district today, for example, very little will change about the overall zoning pattern. However, a group was charged to reevaluate all of the downtown zoning, for which a definition of downtown was established. The public meetings that Mr. Bergman referenced were all about the specific task of redoing zoning districts in downtown Keene but the whole project is much broader. The overall project was mostly to reorganize and streamline the development process in Keene.

c. NHDOT Floodplain Letter

Mr. Lamb said the City had not received the letter yet but he provided an overview. He recalled the bypass project in the late '90s and early '00s when NH DOT evaluated improvements to the state Route system around Keene (Routes 9, 10, 12, and 101). The City understood that much of the work would be in the City's 100-year floodplain. Because the City has an Ordinance for fill in the floodplain, NH DOT agreed to compensate for their fill like all other entities disturbing the floodplain. The work on that project concluded many years ago (including the RT-101 rotary and the bridge over Ash Swamp Brook, among others) but the fill has yet to be compensated. The state has now budgeted to plan and construct the fill compensation in 2020. NH DOT reached out to the City recently to schedule a public forum in early January; Mr. Lamb will share the date via email. This forum will kick-off the study phase that will evolve over the next year before any shovels break ground.

Ms. Clark asked if they are in effect trying to create wetlands. Mr. Lamb clarified that they are creating storage in the floodplain by lowering the grade next to existing floodplains, to replace storage eliminated by DOT work; this could create or alter wetlands. Because they seek City input on where to compensate, he said the Commission should find locations for them to live up to that commitment. Ms. Clark asked who decides where it will happen. Mr. Lamb replied that ultimately, DOT decides but they must comply with the City's Floodplain Ordinance. He is unsure if they will receive the permit to comply as promised, which is why the Commission's input will be important to ensure all relevant information is shared to guide their decision. Mr. Lamb thinks DOT is trying to do an honest job with the help of their consultant, Peter Walker from BHB Consulting Engineers, who has worked with the City before.

Chair Von Plinsky asked how they are measuring the fill. Mr. Lamb said the measurement is in cubic yards and DOT is trying for a one-to-one replacement.

d. Society for the Protection of NH Forests – Easement Monitoring

Mr. Lamb referred to a letter included in the meeting packet. All members agreed it is unclear what the Society monitored and Mr. Lamb will follow-up seeking more details.

4) Discussion Items

a. Conservation Easement Monitoring – Concord Hill Easement

On December 4, Chair Von Plinsky, Ms. Clark, and Mr. Haynes walked a conservation easement on Concord Hill. The Chairman reported a successful walk just after the snowstorm, with one of the residents guiding the walk. A draft monitoring report was included in the meeting packet. He said this went well for a first attempt at what should become a regular effort moving forward. The report documents that there were no major encroachments on the property, which is bounded by RT-9 to the north with fences and is mostly open in other directions. He recalled walking into a deeryard and seeing impressions from where they recently laid in the snow. He hopes to monitor one more property before the end of winter; he suggested an easement off Production Avenue potentially in February if members are interested in participating.

Ms. Clark recalled encountering a sort-of children's fort built with pressure treated lumber, including an excavated pit and the decaying remnants of a trampoline. She was unsure if Commission members could access the private property to disassemble it. The resident who guided the walk identified who constructed the fort and Chair Von Plinsky agreed to speak with the landowner to see if they are willing to remove it. He added that this is a good opportunity for the Commission to determine what violates an easement and how to fix it. Ms. Clark recalled that there is an easement on her property; she is notified via letter if any violations are found and she suggested sending a letter in this instance as well. Mr. Lamb agreed and Chair Von Plinsky will send the report and a letter to the Concord Hill Neighbors Association. The letter can indicate that the structure may or may not be a problem per the easement and please to remove it when no longer needed. Mr. Lamb agreed that it would be the Commission's judgement call whether kids' bringing in lumber for a fort is a true easement violation. Mr. Walker noted that while the pressure-treated wood will decompose faster than most lumber, the trampoline materials would not, and thus Mr. Lamb agreed it is fair to ask them to remove the materials. Chair Von Plinsky agreed and noted that ruins from a structure mentioned in the 2012 report can still be seen today.

Mr. Bergman asked if members referenced a checklist from the easement when walking the property. Chair Von Plinsky said there were walks of this property in 2004 and 2012 and those same questions

were used. The binder of property information also included a topographic map and the actual legal easement details.

Chair Von Plinsky also recalled that a property owner had marked boundaries to curb hunting activities and he assumed that was a good practice because it is their property. He said this further clarifies the need for criteria to determine what qualifies as a violation.

Mr. Reilly asked how close this property is to Beaver Brook Falls and the Chairman replied that the property line is a few hundred feet uphill from the Brook. While there were camps seen near this location in the past, this seems too far from anything to be one.

Mr. Haynes also recalled that the group found a sitting chair across the Brook but did not investigate, assuming it was just used for recreation and enjoying the sights. The Chairman did not mention this in the monitoring report because it was not actually on the easement property.

b. Airport Road Habitat

Mr. Bergman continued discussion about the Airport Road wetland habitats in light of the plans to construct a wildlife fence around the Airport. He recalled feedback from the October meeting stating that it would be helpful to have a record of wildlife observations from the area. He consulted eBird via Cornell University, which is an electronic data collection and presentation software used globally to record bird sightings. He said that these records are systematic and anything unusual would have to be verified. He compiled reports for the airport and especially Airport Road (he said since 2007) and found reports of 187 bird species sighted at the airport, including 147 species sighted specifically from Airport Road; some of which are specifically wetland or grassland birds. He assumed that a high fraction of all reports from the airport came from Airport Road. He can make that species list available or append it to any recommendation the Commission makes in addition to a list of mammal species he has personally seen there and reports available on amphibian species of concern in that marsh.

Mr. Bergman stated that he contacted a biologist from NH Audubon in the summer, who responded in a somewhat diffident way and so more recently he emailed the Director of Conservation and five other senior biologists there. The Director of Conservation, Carol Foss, responded quickly saying that this is an amazing story and important issue. He shared his draft report and asked her to not share it with the other biologists until he knew that was okay per this Commission, although there is nothing therein that is not public knowledge. She also wanted to share the report with a biologist at NH Fish & Game. Her concern was about the siting of the fence and the potential wetland impacts because she had not heard of this possibility before; she has also birded there personally. He requested any models, designs, contractors, or estimates that she has for blinds/hides to help guide recommendations. If these entities can be a resource, he would like their involvement to whatever degree is appropriate. He asked for the Commission's input as a matter of protocol before advising her to share the draft report.

Mr. Haynes said part of the intention of Mr. Bergman's report was to demonstrate the high quality value of wildlife and habitat there. If these biologists can provide feedback to bolster that argument, Mr. Haynes feels that is ok. He added that the Commission does not know if the FAA or Airport is open to recommendations beyond the two alternatives listed in the AMP for the fence location. Initially, it seemed these two alternatives were firm. Mr. Bergman said he could solicit testimonies of the extreme recreational benefit of Airport Road. He added that the FAA regulations must be strict to have necessitated the recent tree cutting that was resisted in many Swanzey and Keene neighborhoods. Thus, he said it is tough to imagine there are many other options available for routing

such a fence if wildlife incursions are in fact such a problem as airport staff report. However, when visiting the official FAA clearinghouse online that lists wildlife incursion events, there is almost nothing listed for Keene. Perhaps the airport does not contribute their data but he imagined that staff has some record. He thinks all incidents of incursions are reported. Mr. Lamb suspected that was not true but more likely pilot-reported strikes or near misses. He agreed that airport staff report a daily occurrence, there is no reason to doubt them, and it is clear the fence is needed. Mr. Bergman said he just wants to mitigate the impact partly on wildlife but also wildlife study, photography, and public enjoyment of a resource.

Mr. Reilly said that the presence of an alternative means the AMP writers must have been amenable to more than one possibility.

Mr. Walker asked if the report is part of an official record. Mr. Lamb replied no. Therefore, Mr. Walker said there should be no stipulation to sharing it. Alternatively, he questioned if the Commission should accept it as a working document to avoid these issues moving forward.

Mr. Bergman said the report should not be shared alone, but in addition to documentation of what the Commission knows about the history and circumstances at the airport. Mr. Reilly agreed the aim is for the report to be understood in context.

Mr. Lamb confirmed that at the time of this meeting, the fence project is in the CIP for FY-21 and while there is no answer yet on what alternative will be chosen, he recalled a productive conversation with Councilor Steve Hooper, who understood both the importance of a fence and the values to which Mr. Bergman was speaking. Mr. Lamb also spoke with the City Manager, who understands this conflict. He recalled that the City Council reviews all projects in the CIP annually, which is an opportunity to bring in people to support another alternatives and present alternate funding sources to gauge whether the Council is receptive. Mr. Lamb, Mayor-Elect Hansel, and Councilor Hooper know the Commission's interest, which can also be shared with the new Airport Director beginning in 2020. The CIP process begins in January, typically for three nights of review at the Finance, Organization and Personnel Committee leading to adoption of the CIP in late February/early March. FY-21 begins on July 1, 2020 and so this project could arise sooner than initially anticipate. Members are willing to attend in Mr. Bergman's absence.

Mr. Walker queried the recommendation in the AMP for barbed wire atop the fence, noting that it would likely deter a human but not a deer. He questioned if airport staff are prepared to remove animals caught in the wires. He added that anything that prevents burrowing under the fence would also prevent creatures like turtles, for example.

Mr. Bergman said that his most urgent question is whether the airport staff is amenable to gates in the fence to allow humans through at selected points while still preventing wildlife. Then, he wants to know if blinds and/or hides can be constructed. He said his outreach was only to determine if the individuals have models on file of these blinds/hides and their footing to determine what cost and construction would entail. All Commission members agreed that Mr. Bergman should move forward because he is only seeking information. He also created maps to circulate among his peers who use the area to generate ideas for gate locations that would help minimize recreational impact. Mr. Haynes and Ms. Clark agreed that the report should cite the NH WAP, which is highly referenced throughout the state.

Mr. Lamb and Mr. Haynes agreed that it would be important to have this information ready to present concisely to Council at the CIP hearings. If enough Councilors are concerned, they will direct staff to develop an alternative for final adoption. Mr. Bergman will send the draft report to Mr. Lamb

so it can be circulated to members for feedback; Mr. Lamb recalled that all emails about Commission business should be sent via staff. Mr. Lamb will keep members informed of the CIP review dates so that members can participate. He suggested that if the Commission has concerns about the alternatives printed in the CIP, then the report should be finalized and adopted as a statement of preferences of the Commission and members should present alternatives at the CIP hearings.

Formalizing the report will be agendized in January.

5) New or Other Business

Ms. Clark reported that new wetland rules that Conservation Commissions and local advisory committees must follow would be published on December 15. She said that ARLAC would discuss the impact of these new rules on local committees. She suggested that the Commission could dedicate upcoming meeting time to discuss the impacts. She suggested that Barbara Richter, Director of NH Association of Conservation Commissions, would be helpful to invite to answer questions; she was influential in developing the rules.

Ms. Clark recalled that visitors from Eversource attended the last ARLAC meeting to discuss utility pole replacements that will occur beginning with the sand pit off RT-12 and across the wetlands. Eversource sought permission from the Planning Board and ARLAC had to provide feedback. They will replace the existing poles with ones 10'-15' taller and made of rusted steel. It is a complex wetland area and so Eversource will follow best management practice and use mats. However, they will construct maintenance roads that open the whole area to off-road vehicles. The current wooden poles have been in place for 65 years and are deteriorating due to woodpeckers. The poles will not be stabilized with concrete but instead 40' wide pipes will be placed in the ground with the 30' pole inside, which is then packed with fill; Ms. Clark suggested this could be a good location for the NH DOT fill compensation discussed earlier in the meeting. The work is set to begin in spring 2020 and there will be some major disturbance because the roads will not be removed.

Mr. Haynes questioned Commission membership, noting that since Mayor-Elect Hansel will be leaving, there will be a vacancy for a Councilor, and Councilor Hooper expressed interest. Ms. Burchsted resigned and Andrew Madison wants to come back. Steve Bill is currently an alternate member and might be interested in active membership. Mr. Haynes is willing to remain as an alternate. The vacancies are for three-year terms. Mr. Lamb will report with whether there is a limit on the number of alternates.

6) Adjournment – Next Meeting Date: TUESDAY, January 21, 2020

Hearing no further business, Chair Von Plinsky adjourned the meeting at 5:55 PM.

Respectfully submitted by,
Katryna Kibler, Minute Taker
December 23, 2019