

FINAL MINUTES
HB 1579 COMMISSION TO STUDY LAND DEVELOPMENT
REGULATIONS AND THE EFFECTS OF LAND DEVELOPMENT
WITHIN UPLAND AREAS THAT MAY AFFECT WETLANDS AND
SURFACE WATERS OF THE STATE

March 16, 2009 * 1:00 PM
NH Legislative Office Building, Room 305, Concord, NH

Commissioners Present:

Chairperson Representative Sue Gottling, NH House of Representatives, member of the Resources, Recreation and Development Committee
Vice-chairperson Erin Darrow, representing American Council of Engineering Companies of NH
Representative Chris Christensen, NH House of Representatives
Cheryl Killam, representing NH Municipal Association
Peter Stanley, representing NH Association of Regional Planning Commissions
Jennifer Czysz, representing NH Office of Energy and Planning
Pat Corso, representing Business and Industry Association
Charles Miner Jr., representing NH Fish and Game Department
Paul Morin, representing Home Builders and Remodelers Association of NH
Laura Deming, representing NH Audubon Association
John Doran, representing NH Association of Realtors
Johanna Lyons, representing NH Department of Resources and Economic Development
James Gove, representing Associated General Contractors of NH
Rene Pelletier, representing NH Department of Environmental Services
Jasen Stock, representing NH Timberland Owners Association

Other Attendees:

Representative Jim McClammer, NH House of Representatives
Philip Braley, Brown, Olson & Gould
M. Tucker, Devine Millimet
Carolyn Russel, NH Department of Environmental Services
Susan Olsen, NH Municipal Association
Gina Rotondi, Rath, Young and Pignatelli
Michael Licata, Business and Industry Association
Jeff Taylor, Jeffrey H. Taylor and Associates
Steve Whitman, Jeffrey H. Taylor and Associates

Commission Staff:

Dari Sassan, NH Office of Energy and Planning

I. ROLL CALL AND INTRODUCTIONS

Chairperson Gottling called the meeting to order at 1:07 PM. Commissioners, speakers, and staff introduced themselves by name and representation.

II. APPROVAL OF MINUTES FROM FEBRUARY 23, 2009 MEETING

Mr. Stanley moved to approve the minutes of the February 23, 2009 meeting. Mr. Morin seconded. The minutes were accepted unanimously with two abstaining because they were not in attendance at the February meeting.

III. PRESENTATIONS

Mr. Sassan introduced Mr. Whitman, Senior Planner, Jeffrey H. Taylor and Associates. Mr. Sassan said that Mr. Whitman is well known in the NH planning community as one who maintains an up-to-date knowledge of professional planning practices in the United States and beyond.

Mr. Whitman gave a presentation entitled "Ecological Design in the Built Environment." The presentation is available online at:

http://www.nh.gov/oep/legislation/2008/hb1579/2009/documents/ecological_design_in_the_built_environment.pdf

Mr. Gove speculated that some of the regulatory complications that eco-communities face are based upon conflicts with policies that were originally put in place to protect public health. Using building code compliance as an example, he asked how one could respond to these issues. Mr. Whitman said that some eco-communities were constructed before health and safety codes were in place and may have exhibited health and safety deficiencies. He added that, more recently, there are many examples of cooperation between eco-communities and municipalities to create solutions that adhere to the intent of the regulations while allowing for innovative applications. Additionally, Mr. Whitman said that part of the solution lies with proving the merits of new techniques by doing them properly and documenting the results.

Ms. Deming asked if there exists a set of best management practices that eco-communities can adhere to in order to insure compliance with local standards. Mr. Whitman replied that by meeting standards, one really has not accomplished anything other than adherence to the law. He said that an eco-community is better off identifying important natural resources, which it intends to protect, and to go from there, exceeding standards along the way.

Mr. Morin asked about the relative cost of developing in the manner described in Mr. Whitman's presentation. He referred to a development in Wilton where small homes are selling for \$500,000. Mr. Whitman said that the integration of an affordability component could be better targeted. He added that smaller-scale infill projects could offer significant opportunity for affordable, sustainable development. Mr. Doran asked if the costs of eco-community living have been analyzed on a monthly basis, noting that utility costs are likely lessened, potentially to a degree

that could offset elevated mortgage costs. Mr. Whitman said that he has not seen such an analysis but felt that such considerations might be the “story to tell” when promoting eco-communities.

Mr. Gove asked about the concept of encouraging higher density and conservation to address affordability. Mr. Whitman responded that some density is good and some is not, but that, in general, higher density population centers are preferable to sprawling development from an affordability standpoint as well as a conservation standpoint.

Mr. Stanley asked about the role climate plays. Mr. Whitman said that many techniques work surprisingly well in cold climates, including stormwater and wastewater treatment methods. He added that traditional, regional development methods can be incorporated and can provide solutions to climate-related challenges.

Mr. Stock asked if green-building certifications like LEED could be used to satisfy local building code concerns. Mr. Whitman said that while such certifications might not offer a way to circumvent building code, the certification standards might provide a good reference with which to cross-section building codes. Potentially such a process could lead to building code revisions that would incentivize certification.

Chairperson Gottling said that education is essential. She noted that in one NH town, people wanted to create a cluster development, but the local boards did not understand the concept and it did not go forward. Instead, she continued, the same site is home to a conventional development that has denuded the landscape.

Mr. Gove asked about the procedural framework for settling neighborhood disputes within an eco-community. Mr. Whitman said that entities similar to condo associations often exist to settle such matters, adding that some communities use consensus decision-making, which can result in slow change.

On Representative Christensen’s request, Mr. Whitman recommended the following websites for more information about eco-communities:

<http://gen.ecovillage.org/>
<http://www.cohousing.org/>

Ms. Czysz noted that in its recent meetings, the Commission had focused on the regulatory elements necessary to foster responsible land use. Through Mr. Whitman’s presentation, she continued, the Commission has been able to get a look at some of the potential outcomes.

Mr. Taylor encouraged State Government to begin educating itself by becoming a leader by example in the use of energy-efficient and resource-conservative applications.

IV. SUBCOMMITTEE PROCEEDINGS

Ms. Czysz said that the subcommittee to research other state’s programs (for which she serves as chair) continues to work on a matrix of programs impacting land use in NH and other New England states. She said that the subcommittee would report back at the next meeting.

Mr. Gove announced that Ms. Deming has joined the definitions subcommittee. He said that he is approaching the work of the definitions subcommittee with the philosophy that the task at hand is huge and that the only way to handle it is to break down pieces of it as “we” proceed. Mr. Gove said that the first step should involve getting a handle on definitions and circulated a handout describing the following three different types of impacts:

- Cumulative
- Indirect
- Secondary

Chairperson Gottling asked Mr. Gove if his subcommittee would draw upon available science to determine bounds defining each type of impact. He said that his subcommittee would draw upon science and existing regulation. Speaking of three lists of functions included in his handout, Mr. Gove described the origin of each and said that the list that his subcommittee eventually puts forth might be a combination of the three. When asked to further explain the difference he sees between secondary and indirect impacts, Mr. Gove said that a secondary impact is more directly related to a permitted activity in time and space and added that an indirect impact might not stem directly from a permitted activity. Chairperson Gottling proposed revisiting the subject at the next Commission meeting.

Mr. Morin reviewed the following list of bills, which included each bill’s status at the time of the meeting:

HB 45	AN ACT relative to the water supply land conservation program <i>–PASSED THE HOUSE</i>
HB 222	AN ACT relative to fill and dredge permits in wetlands <i>–IN COMMITTEE</i>
HB 290	AN ACT authorizing fluvial erosion hazard zoning <i>–EXEC SESSION 3/17</i>
HB 307	AN ACT allowing the construction of gray water systems on private property <i>–EXEC SESSION 3/17</i>
HB 362	AN ACT relative to zoning districts <i>-ITL</i>
HB 384	AN ACT creating urbanization and timber harvesting exemptions for prime wetlands <i>–EXEC SESSION 3/17</i>

HB 502	AN ACT modifying the definition of “dam” – <i>EXEC SESSION 3/12</i>
HB 652	AN ACT relative to the impact of demolition and construction projects on the environment - <i>RETAINED</i>
HB 681	AN ACT relative to aquatic resource compensatory mitigation – <i>EXEC SESSION 3/12</i>
SB 65	AN ACT relative to the acceptance of in lieu payments for the restoration or creation of wetlands – <i>PASSED WITH AMMENDMENT</i>
SB 134	AN ACT relative to the comprehensive shoreland protection act – <i>IN COMMITTEE</i>

Chairperson Gottling asked Mr. Morin when the Department of Environmental Services would be conducting meetings regarding the alternate permitting program. Mr. Morin said that he would find out and would determine whether the program has relevance to the Commission so as to warrant regular reporting.

V. ADJOURNMENT

At 2:42 PM, Mr. Stanley moved to adjourn the meeting. Representative Christensen seconded the motion, which passed unanimously.