

**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**

April 20, 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  
Peter Stanley, representing NH Association of Regional Planning Commissions  
Jennifer Czysz, representing NH Office of Energy and Planning  
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 Frank Tupper, NH House of Representatives  
Carolyn Russel, NH Department of Environmental Services  
Susan Olsen, NH Municipal Association  
Gina Rotondi, Rath, Young and Pignatelli  
Michael Licata, Business and Industry Association  
David Shulock, Brown, Olson & Gould, P.C. Biomass Group

**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 MARCH 16, 2009 MEETING**

Mr. Doran moved to approve the minutes of the March 16, 2009 meeting. Mr. Gove seconded. The minutes were accepted unanimously.

**III. PRESENTATIONS**

Mr. Gove gave a presentation, which summarized the progress of the definitions subcommittee. The presentation is available online at:

<http://www.nh.gov/oep/legislation/2008/hb1579/2009/documents/HB1574CommissiontoStudyLandDevelopment4-6-09.pdf>

Mr. Gove indicated that his committee was favoring a distance-based approach to identifying the parameters of a secondary impact rather than a standards-based approach. Mr. Doran recalled that, during the February Commission meeting, presenters from the US Environmental Protection Agency had said that use of distance as a trigger for regulation had a tendency to create an inflexible system. Mr. Gove indicated that the difficulty with a “flexible” system is that it allows for controversy. He added that a lack of rigidity could create extra work for the Department of Environmental Services (DES).

Mr. Gove gave a second presentation, which looked at a case study about Northwest Business Park Hackett Hill Road Manchester, New Hampshire. The presentation is available online at:

<http://www.nh.gov/oep/legislation/2008/hb1579/2009/documents/NorthwestBusinessPark.pdf>

Mr. Stock asked how the use of porous pavement altered the outcome of the project. Mr. Gove said that without the pavement, a 250-foot buffer still would have been used, but the pavement allowed for the runoff to a white cedar swamp to remain unchanged. Additionally, added Mr. Gove, the porous pavement allowed the City to maximize the amount of usable land by eliminating the need for detention basins. Mr. Gove added that porous pavement was easier to model than other infiltration systems.

Ms. Darrow asked if established building envelope dimensions were used to model the system. Mr. Gove said that in order to ensure that all stormwater would be infiltrated, the depth of gravel sub grading was dependent upon the size of buildings as well as the amount of pavement. He added that ratio of parking to building space was determined through compliance with the City parking ordinance requirements.

Mr. Stanley asked if the requirement to use pervious pavement was accompanied by a maintenance requirement. Mr. Gove clarified that pervious pavement had not been required by DES. He said that it was simply the best solution. Mr. Gove added that in making the choice to utilize pervious pavement, the City established a

requirement that each development envelope agree to buy into the maintenance plan. Thus, at the site plan approval phase, each new owner would commit to the maintenance plan.

Mr. Pelletier said that the land-use issues faced in the State are broader than just wetlands. He said that wetlands serve as the hook for dealing with the overarching issue of stormwater. Mr. Christensen asked about the progress of the Stormwater Commission. Mr. Sassan gave a brief summary of recent discussions within the Stormwater Commission including the recent development of subcommittees. Meeting minutes and presentations from the Stormwater Commission are available online at:

<http://www.nh.gov/oep/legislation/2008/hb1295/index.htm>

Chairperson Gottling asked if the 250-foot buffer was selected arbitrarily. Mr. Gove said that it was deemed appropriate for the protection of high-sensitivity areas.

Mr. Doran identified two variables that go into the secondary-impact equation:

- What shall be protected, and
- Perimeter within which activities have an impact on that being protected.

He said that when proximity and distance based parameters are used, the end result can be the restriction of development on very large tracts of land. Mr. Gove said that the institution of a blanket setback distance from *all* wetlands ignores the variability of function from one wetland to another. In response, Mr. Doran expanded his variables list to include a third:

- The functions that one is trying to protect,
- The resources that shall be protected to preserve that function, and
- Perimeter within which activities have an impact on that which is being protected.

Chairperson Gottling said that, even within a distance-based approach, at some point, standards must come into play.

Mr. Morin asked what would precipitate if the full committee expressed support of the path being taken by the definitions subcommittee, further asking who would set distances if the Commission agreed to move forward with a distance-based approach. Mr. Gove said that he was interested in learning if the Commission would support the current approach of the definitions subcommittee and said that the Commission would address specific distances.

Mr. Doran expressed a vote of confidence in the work of the definitions subcommittee. A straw poll revealed the Commission's overall support for the approach that the Definitions Subcommittee is taking. Mr. Gove added that Mr. Miner had joined the definitions subcommittee.

Mr. Morin talked about the Innovative Permitting Program that DES is in the process of developing. He distributed a handout created Ms. Russell that described the program. The handout can be accessed online at:

[http://www.nh.gov/oep/news/2009/documents/innovative\\_permitting\\_fact\\_sheet.pdf](http://www.nh.gov/oep/news/2009/documents/innovative_permitting_fact_sheet.pdf)

He said the program strives to improve overall environmental health without creating greater administration. Ms. Russell added that the program allows for innovative practices statewide and that municipalities would have to allow for innovation in order for the program to reach its potential.

#### **IV. DISCUSSION OF FUTURE MEETING TOPICS AND DATES**

Chairperson Gottling requested suggestions of topics for the next Commission meeting. Ms. Darrow expressed interest in bringing Paul Leveille, a greenbuilding specialist, before the Commission. As a backup, Ms. Deming proposed inviting Paul Currier of DES.

#### **V. ADJOURNMENT**

At 2:40 PM, Mr. Morin moved to adjourn the meeting. Mr. Doran seconded the motion, which passed unanimously.