

**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**

August 17, 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  
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  
Cheryl Killam, representing NH Municipal Association  
John Doran, representing NH Association of Realtors  
James Gove, representing Associated General Contractors of NH  
Rene Pelletier, representing NH Department of Environmental Services  
Jasen Stock, representing NH Timberland Owners Association  
Paul Morin, representing Home Builders and Remodelers Association of NH  
Peter Walker, representing NH Association of Natural Resource Scientist

**Other Attendees:**

Elizabeth Gould, D & B  
Dick Uncles, Department of Agriculture  
Jillian McCarthy, NH Department of Environmental Services  
Representative Edith 'Dee' Hogan, Nashua, Ward 7, District 25  
Patrick Murphy, NH Senate Legislative Aide  
David Preece, Southern NH Planning Commission  
Cynthia Copeland, Strafford Regional Planning Commission  
Kerrie Diers, Nashua Regional Planning Commission

**Commission Staff:**

Farzana Alamgir, NH Office of Energy and Planning

**I. ROLL CALL AND INTRODUCTIONS**

Chairperson Gottling called the meeting to order at 1:03 PM. Commissioners, speakers, and staff introduced themselves by name and representation.

**II. APPROVAL OF MINUTES FROM JUNE 15 AND JULY 20, 2009**

Mr. Doran moved to approve the minutes of the June 15, 2009 meeting. Ms. Killam seconded. The minutes were accepted unanimously.

Because a quorum was not present on July 20, 2009, the minutes from the July 20, 2009 could not be approved and it was unanimously accepted they be called the “records from the fieldtrip”.

**III. PRESENTATIONS**

Mr. Stanley introduced the Regional Planning Commission (RPC) presenters:

1. David Preece of Southern New Hampshire Planning Commission.
2. Cynthia Copeland of Strafford Regional Planning Commission.
3. Kerrie Diers of Nashua Regional Planning Commission.

Mr. Preece gave an overview of the RPCs in New Hampshire and that the RPCs are created under RSA 36:46. Regional planning commissions are required by New Hampshire statute to prepare regional master plans, compile housing needs assessments, and review developments of regional impact. He also gave a brief about their mission and how their work is coordinated. He mentioned that one of their major focuses is to assist the Planning Boards with various short term and long-term planning issues and work closely with the towns. Mr. Preece pointed out that the RPCs maintain strategic relationships with various state and federal agencies and are in close coordination with the Office of Energy and Planning (OEP), the NH Association of Regional Planning Commissions (NHARPC), the NH Planners Association (NHPA) and the Northern new England Chapter of the American Planning Association (NNECAPA) and provide educational forums.

Ms. Copeland presented The Land Conservation Plan for New Hampshire’s Coastal Watersheds, published in July 2006. It was prepared for NH Estuaries Project, a project hosted by UNH and NH Coastal Program of DES.

[http://www.rpc-nh.org/PDFs/docs/coastal-conservation/Coastal\\_Plan\\_Complete.pdf](http://www.rpc-nh.org/PDFs/docs/coastal-conservation/Coastal_Plan_Complete.pdf)

Ms. Copeland mentioned that this project received funds from the NH Estuaries Project, a program hosted by UNH; NH Coastal Program with funds from National Oceanic and Atmospheric Administration (NOAA) to fund the plan; EPA funds through Piscataqua Regional Estuaries Program (PREP); Strafford Regional Planning Commission; The Nature Conservancy; Society for the Protection of New Hampshire Forests; and NH Charitable Foundation. The project was carried out through federal, state, regional and local collaboration.

She also said the process took 1.5 years and was completed in July 2006. For this project, every land trust and community was surveyed and their regulations were taken into account.

The priority study areas were the watershed, forested land, coastal/estuarine regions, fresh water systems, plant and wildlife habitats.

She also mentioned that the RPCs and SRPC wrote model ordinances as part of the program, and New Durham has adopted some the models.

Ms. Killam asked if the habitat protection ordinances are available? Ms. Copeland replied Yes: they are available in the plan and in the Innovative Land Use Guide.

Mr. Walker asked if there are any other model ordinances available? Who has adopted them? Ms. Copeland responded that there were also conservation area ordinances available and one or two communities have adopted them. In response to why so few have adopted them, she mentioned that the plan uses science to set priorities. Different municipal groups have different priorities and therefore this requires greater outreach and repeated presentation.

Mr. Doran asked a series of questions regarding the length and breadth of area covered in the plan, GIS and the methodology

Mr. Stanley asked what was the motivation behind this: was it state demand or money available? Ms. Copeland responded that demand was there; in order to be eligible for Coast and Estuarine Land Conservation Program (CELCP) funds a plan had to be in place.

Mr. Pelletier inquired about outreach and asked if there are any suggestions, based on their lessons learned, as to how to garner greater municipal engagement and if there is a need for more hand holding? How do we get the word out? Are there any creative thoughts for engagement? Ms. Copeland responded that there needs to be more detailed information and step-by-step process facilitating dialogues between municipalities, local, state and federal government, regulators and NGOs. She also stated that through face-to-face meetings, repeated presentations, reiteration, and persistence the right hook could be found to gain the interest of the people.

There were conversations between the commissioners as to the merits of statewide outreach and education versus statewide minimum zoning requirements; in other words, voluntary versus regulatory solutions and incentives based programs. Rep. Gottling noted that NH does not have a statewide environmental policy unlike other New England states.

There was general inquiry as to what model ordinances and guidance information OEP provides to municipalities and other organizations. Ms. Czysz stated that there are model ordinances and model site plan regulations along with the Planning Board Handbook and the Zoning Board Handbook that are published by OEP. There are also other guidance publications, i.e. the technical bulletins and all these materials are available online at the OEP website at: [www.nh.gov/oep](http://www.nh.gov/oep).

Ms. Diers started her presentation with a brief description of Nashua Regional Planning Commission and their mission to work with municipalities to assist them with their concerns and priorities. She introduced the Innovative Land Use Planning Techniques Handbook (ILU Handbook) that is based on RSA 674:21 that is compiled by the NH Department of Environmental Sciences (NH DES), NHARPC, NH OEP and the NH Municipal Association

(NHMA). The ILU Handbook is created as a guide so the RPCs can work one-on-one with municipalities to adopt models.

Ms. Diers mentioned that it takes a lot of handholding and many years of familiarization to adopt new model ordinances in any municipality. There needs an extended period of time before something that is new and innovative becomes desirable; therefore, a lot of partnering is required. All must convey the same message and point at the same direction. Mr. Walker inquired if New Hampshire's strong local planning authority is unique to New Hampshire or typical when compared to other states? Ms. Diers replied that most states have strong county governments that provide consistency.

Mr. Stock asked, after noting that RPCs do far more than just wildlife plans and environmental planning, while integrating various plans into transportation planning, who makes the final judgment call on various options and conflicting land uses? Ms. Diers responded that the RPCs may advise a community on the best approach, however, ultimately it is the municipality that makes the final call on their decisions. The role of the RPC's is non-regulatory and completely advisory. RPCs are membership organizations that do not set local policies.

David Preece returned to wrap up the presentations. He stated that one of the other the tasks of RPCs is to do a Regional Comprehensive Plan that looks at the region as a whole and take into consideration municipal plans and possibly create a comprehensive future land use map. Another program he discussed was the Community Technical Assistance Program (CTAP), which was formed to assist communities in the I-93 region plan for growth in response to the I-93 environmental impact assessment (EIS) to address secondary impacts. This integrated land use and transportation planning combines the efforts of municipalities, OEP, the Department of Transportation (DOT), four RPCs, homebuilders, SPNHF and other organizations for a more holistic approach. (<http://www.nhctap.com/>).

Mr. Preece mentioned that CTAP held 5 – 6 forums over 2 years, asking how to address growth and development in the municipalities. Their strategies included: presentations on integrated planning, preparing enhanced GIS based information and new aerial photographs and creating new existing land use maps, and open space planning for all 26 towns, etc.

Representative Gottling stated that there are difficulties with communication in small towns that have no local paper, cable, TV channel, so how to spread the word? Mr. Preece responded that it is doable with Internet, but if Internet is also unavailable, than outreach is done physically through town visits and, sometimes, individual mailings.

Mr. Morin mentioned that many communities focus on natural resource protection. However with the current economic crisis, should towns shift their communication strategy to state "you should do this there"? Mr. Preece responded that economic development issues should be addressed at a local and regional level and locations for new development should be coordinated with existing infrastructure. Communities who are going for economic development must look at what businesses they want to attract and can sustain.

The commissioners discussed that no matter how frequently you offer educational programs or write plans, there are always individuals in the community who will be obstructionists. Mr. Doran stated that there are some people who do listen; we need ways to streamline and clarify the process. Mr. Stock asked how the local level turnover affects the Regional Comprehensive Plan and its endorsement? Mr. Preece replied that it does have an effect; therefore, regular plan updates and education are essential.

Mr. Stanley discussed how RPCs are funded; he mentioned that funding is through community memberships, some is project based, and there are grants from DOT, DES and OEP.

#### **IV. SUBCOMMITTEE REPORTS**

Mr. Gove discussed modifying 482-A and the need to decide and define what is an "impact." Direct impacts are easy to determine, indirect impacts are more difficult. The first step in this process is to determine a functional value index.

Mr. Gove mentioned that the prime and tidal wetlands of NH already have 100 feet of buffer set by law. There should be exemptions built in for drainage ditches, agriculture, forestry, and CSPA jurisdiction areas. He asked how do we handle vernal pools? He stated that DES needs to consider direct and indirect impacts as part of permits.

In response to a question on whether secondary and indirect impacts are synonymous, Mr. Gove said, they are and a direct impact must occur before a secondary impact can happen. He also stated that they are waiting for the revised NH Method to be released in order to continue the sub-committee's work and remain consistent with outside work.

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

Next meeting is to be held September 21, 2009 at 1:00 PM at the NH Legislative Office Building, room 305.

#### **VI. ADJOURNMENT**

Ms. Killam made a motion to adjourn the meeting; Mr. Pelletier seconded it. Chairperson Gottling adjourned the meeting at 2:50 PM.