

*These minutes were approved at the June 10, 2024 meeting.*

**DURHAM CONSERVATION COMMISSION**  
**Monday, April 29, 2024**  
**DURHAM TOWN HALL, COUNCIL CHAMBERS**  
**7:00 p.m.**

**MEMBERS PRESENT:** Jake Kritzer (Chair); Erin Hardie Hale (Vice Chair); Wayne Burton (Town Council Rep); Nick Lanzer (Alternate); Roanne Robbins; Neil Slepian; and Dwight Trueblood (Alternate, on zoom);

**MEMBERS ABSENT:** Richard Kelley (Planning Board Rep); John Nachilly;

**ALSO PRESENT:** Michael Behrendt, Durham Town Planner and Sara Callaghan, Land Stewardship Coordinator

**I. Call to Order**

Chair Jake Kritzer called the meeting to order at 7:00 p.m.

**II. Land Acknowledgement Statement**

The Chair read the statement as adopted by the town's Human Rights Commission.

**III. Roll Call and Seating of Alternates**

Roll call was taken and the Chair seated Alternate Nick Lanzer as a voting member for John Nachilly.

**IV. Approval of Agenda**

*Mr. Slepian MOVED to approve the agenda as submitted; SECONDED by Mr. Lanzer; APPROVED unanimously by roll call vote, 7-0, Motion carries.*

**V. Public Comments:** There were none at this time.

**VI. Land Stewardship Update.** Sara Callaghan, Land Stewardship Coordinator.

Discussion about creating a committee or recognizing an ad hoc group to investigate ways to educate the public about conservation issues.

Ms. Callaghan gave highlights of her recent activities:

- There have been three successful volunteer workdays, including at Milne Nature Sanctuary with a UNH leadership class; At Pike Property, where an ATO fraternity began removing old fencing from the northern end, thereby clearing space for town vehicles to enter; and at Longmarsh Preserve, where Air Force ROTC volunteers worked on the yellow trail.
- The Land Stewardship Sub-Committee is evaluating options for repairs and upgrades to wetlands crossings at Longmarsh Preserve; some are considered safety issues. She's coordinating grant funding for the work.
- Ms. Callaghan visited Longmarsh Preserve with Jeremy Howland, Ph.D. candidate, who is doing lichen research. He took samples and she asked him about giving presentations to Committees and Commissions.
- She has been in touch with UVM Professor Alexandra Kosiba, who has published in *Northern Woodlands* on forest stewardship and climate impacts. Ms. Callaghan proposed that the Commission sponsor a talk by Ms. Kosiba open to the public.

Commission members asked questions about her topic and public speaking experience and then Vice Chair Hale suggested that since this falls under education, it could be sent to the soon-to-be-proposed Education Sub-Committee for follow-up.

The Chair said Ms. Callaghan should move ahead with exploring Ms. Kosiba as a speaker, since formation of the Education Sub-Committee could take some time. Mr. Behrendt added there's money in the budget to pay speaking fees, if needed.

#### Proposal to Create New Education Sub-Committee

Ms. Callaghan and Vice-Chair Hale proposed the creation of a new Sub-Committee to focus on communication and cooperation across different town committees, including Land Stewardship, Parks and Recreation, Conservation and Agriculture. The overall goal is to engage the public more directly in land stewardship and natural resources and to create excitement around volunteer activities.

A written proposal was sent to Commission members in advance.

The Chair raised questions about the process and structure of a sub-committee. Is it a working group or a more formal committee, with published agendas and minutes?

Mr. Behrendt said it would be considered a formal committee if there's a standing group of people who meet at regular times and have a set ongoing charge. He encouraged the Commission to take a vote if they want to establish such a committee.

Ms. Callaghan noted that a working group would be of a temporary nature, in her opinion, usually to address something simple. Their idea is of a more formal structure.

Vice-Chair Hale elaborated on the goals of the committee. She stressed that the Conservation Commission doesn't need to host all activities or events on their own but could more readily take part in events initiated by other town groups and commissions.

There was lengthy discussion on how a sub-committee would be structured. Mr. Slepian then proposed they start out as a working group and potentially organize themselves into a more formal sub-committee at a later date.

Mr. Behrendt agreed this makes sense. It would give the group time to reach out to town boards and commissions to gauge interest.

Ms. Callaghan asked for a vote for the formation of a working group so they would feel authorized to speak on behalf of the Commission to other town boards and outside groups.

***Jake Kritzer MOVED to form a working group composed of Sara Callaghan, Erin Hale and Roanne Robbins to develop a strategy for increased public engagement and education on environmental stewardship; SECONDED by Roanne Robbins; APPROVED unanimously by roll call vote, 7-0, Motion carries.***

**VII. Wetland and Shoreland Overlay District – Zoning Amendment.** Discussion with Neil Slepian and Dwight Trueblood about proposed new Wetland and Shoreland Overlay District (WSOD) to replace the current Wetland Conservation Overlay District (WCOD) and Shoreland Protection Overlay District (SPOD). A Committee appointed by the Conservation Commission has been working for over a year to rewrite the WCOD and SPOD. The committee now has a draft to present to the commission.

The Chair recapped that last month Mr. Slepian and Mr. Trueblood gave an overview of draft changes to a new combined Wetland and Shoreland Overlay District ordinance (WSOD). They worked with a sub-committee over the last 15 months, with representatives from other town boards – including the Planning Board and Town Council. Tonight is for discussion before sending the draft ordinance to the Planning Board. There is no set timetable to do this.

Chair Kritzer noted the ordinance would be a significant policy change for the town. He highly respects the work of the sub-committee, but he said Commission members don't need to rubber stamp it; discussion is encouraged.

Mr. Slepian then proceeded to walk through the changes as outlined on a matrix of changes prepared by Mr. Behrendt.

**Lengthy discussion followed, summarized here:**

Definitions: The sub-committee took considerable time to research and re-write definitions. Mr. Lanzer asked about the inclusion of "prime wetland" since Durham doesn't currently have any. Mr. Slepian said it's a placeholder and Mr. Trueblood added the term appears in the ordinance, so they felt it was important to include it.

Purpose of WSOD: Comments centered on carbon capture and sequestration. Chair Kritzer asked why these weren't addressed in Item G, which references resiliency. Mr. Lanzer said resiliency in this context doesn't connote carbon. Mr. Trueblood said the only way to increase carbon capture would be to increase the size of the wetlands or prevent loss of wetlands.

Section 175-60 – Applicability: The revised ordinance gives a comprehensive list of specific water bodies. Chair Kritzer asked about swales (Item B) that are not maintained. Mr. Lanzer asked if they are proposing that wetland scientists determine if a stream is perennial or intermittent and Mr. Trueblood replied yes, a professional is recommended. There was some discussion over who would bear the cost of hiring a wetland scientist: the applicant, the town or potentially an abutter opposed to the plan.

Mr. Burton pointed out that any water bodies running through UNH campus are exempt from the ordinance. Mr. Slepian said only the part of a water body running through campus is exempt; other parts are not. College Brook is an example.

Buffers: This section proposes new buffers for different types of water bodies, including bogs, wetlands, and vernal pools. The sub-committee didn't reach consensus on Tidal Waters (Item D) including Great Bay and Little Bay. They are looking to the larger Commission to reach a decision. The study, *Buffers on the Bay*, recommends 330-feet.

Mr. Lanzer proposed leaving it as a range (200 to 330-feet) since each case is different; wildlife habitat and slope of the land can be factors, e.g. However, later in the discussion Mr. Behrendt said the ordinance needs to be more specific and can't be written as a range.

Vice-Chair Hale asked Mr. Slepian and Mr. Trueblood to synthesize some of the discussion that took place in the sub-committee regarding tidal water buffers.

Mr. Trueblood said the maximum 330-feet would provide the widest buffer possible for wildlife habitat and corridors and is optimal from an environmental standpoint. However, they received input from Mr. Behrendt and others indicating a smaller buffer would be more practical for homeowners and developers. The sub-committee considered doubling it from 100 to 200 feet, but following the science they are inclined to recommend 330-feet.

Mr. Burton asked for an example of what type of activities would be limited in the buffer.

Mr. Trueblood said one of the biggest threats facing Great Bay is from lawns, many treated with herbicides and pesticides that wash into the Bay. In addition to allowing animals to move more freely around marshlands and wetlands, the 330-foot buffer would provide more space to filter pollutants. He added that as sea level rises, wetlands will migrate. If they have nowhere to go, they will disappear.

Mr. Burton asked what type of vegetation could be used in a shoreland buffer, noting that grass is being used to prevent erosion at Wagon Hill Farm. Can a private homeowner still plant grass if they don't use fertilizer? Mr. Trueblood said only naturalized vegetation would be permitted. The goal is to avoid invasive species, bare land or traditional lawns needing fertilization.

175-61: General Requirements for Buffer of WSOD: In the draft proposal, no new lawn, garden or landscape would be allowed in the buffer, except for permitted uses. Conditional Use permits could be granted in some cases, but no pesticide use would be allowed.

There was discussion about proposing the larger 330-foot buffer and letting applicants make the case for exceptions. Mr. Slepian said Paul Rasmussen (Town Council) was vocal about pushback from homeowners if the larger buffer were to be adopted.

Chair Kritzer said the Conservation Commission is making science-based recommendations; the Planning Board will need to weigh trade-offs. Vice Chair Hale said given that tidal waters are unique and under threat, she supports a 330-foot buffer.

In answer to a question, Mr. Trueblood reiterated that most of the recommendations came from *Buffers on the Bay* (study). He said the biggest threat to tidal waters is from pollutant runoff. The science has advanced enough since the ordinance was last updated that we now have a better understanding of how pollutants migrate through water bodies.

Commission members reached consensus to propose a 330-foot buffer for tidal waters and tidal wetlands.

There was lengthy discussion about these two terms. Mr. Trueblood said tidal waters move back and forth with tides; tidal wetlands have some tidal water and are periodically flooded; other times, water recedes. Members decided to change the wording to “tidal water bodies.”

Re: other items, Ms. Robbins said she’s uncomfortable with the proposed vernal pool buffer of 150-feet since some species need as much as 600 to 650-feet. She asked if the sub-committee had considered directional buffers and the response was they had not. Directional buffers would allow for some habitat to be of lesser importance to species that breed in vernal pools. They would not travel in the direction of a field, for example.

At one point, Chair Kritzer invited public comment but there was none.

In consideration of the time, the Chair proposed continuing the discussion at the June 10th meeting; the Commission isn’t meeting in May.

#### **VIII. Election of Officers:**

Chair Kritzer said members need to elect a new chair since his term is ending and he’s not renewing it. It was clarified Mr. Trueblood will move from an alternate to a regular member as of May 1st.

***Jake Kritzer MOVED to nominate Dwight Trueblood to become Chair of the Conservation Commission as of May 1, 2024; SECONDED by Erin Hale; ACCEPTED by Mr. Trueblood and APPROVED unanimously by roll call vote, 7-0, Motion carries.***

Ms. Hale said she’s willing to continue as Vice Chair.

***Ms. Robbins MOVED to nominate Erin Hale as Vice Chair; SECONDED by Mr. Kritzer; APPROVED unanimously by roll call vote, 7-0, Motion carries.***

#### **IX. Review of Minutes: January 22, 2024 and February 26, 2024 - TABLED**

#### **X. Other Business:**

Mr. Behrendt said three strong candidates have applied to serve on the Commission but there are currently only two open slots for alternates.

Roanne Robbins said she intends to step down from the Conservation Commission and focus her efforts on the Education Sub-Committee as an at-large member, thereby opening one regular spot on the Commission.

It was decided Alternate Nick Lanzer will be recommended to Town Council to fill her spot and the three other candidates will be recommended as alternates.

**XI. Roundtable.** Updates from Conservation Commission members.

Mr. Slepian thanked Jake Kritzer for his outstanding service and leadership as Chair. Mr. Kritzer also acknowledged and thanked Roanne Robbins for her contributions.

**XII. Adjournment**

***Ms. Robbins MOVED to adjourn at 9:55 p.m.; SECONDED by Chair Kritzer, APPROVED unanimously, 7-0, Motion carries.***

Respectfully submitted,  
Lucie Bryar, Minute Taker  
Durham Conservation Commission