



# The Senate of the State of New Hampshire

107 North Main Street, Concord, N.H. 03301-4951

## MEMORANDUM

**DATE:** November 13, 2020

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**TO:** Honorable Chris Sununu, Governor  
Honorable Stephen Shurtleff, Speaker of the House  
Honorable Donna Soucy, President of the Senate  
Honorable Paul C. Smith, House Clerk  
Honorable Tammy L. Wright, Senate Clerk  
Michael York, State Librarian

**FROM:** Senator Martha Fuller Clark, Chairman

**SUBJECT:** Final Report of the Commission to Study Barriers to Increased Density of Land Development in New Hampshire  
SB 43, Chapter 300:1, Laws of 2019

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Pursuant to SB43, Chapter 300.1, Laws of 2019, enclosed please find the Final Report of the Commission to Study Barriers to Increased Density of Land Development in New Hampshire.

If you have any questions or comments regarding this report, please do not hesitate to contact my office.

I would like to thank the members of the Commission and all those who participated in compiling this report for their efforts.

Senator Martha Fuller Clark

Enclosures:

*Final Report*

*Commission Minutes*

cc: Members of the Commission

**SB 43**  
**CHAPTER 300:1, LAWS OF 2019**

*Commission to Study Barriers to Increased Density of Land Development in New Hampshire*

**FINAL REPORT**

**Introduction**

The above-named Commission was established to study barriers to increased density of land development in New Hampshire.

**Duties of the Council**

The commission shall study issues related to the density of land development in New Hampshire. The commission's duties shall include, but not be limited to:

- a. Review of current patterns of land development in New Hampshire, especially residential development and adaptive reuse of existing buildings.
- b. Identification of barriers to increasing the density of land development.
- c. Determine minimum standards of residential development density, considering the availability of public water and sewer infrastructure or other appropriate alternatives, and accounting for variability of environmental conditions.
- d. Consider reinstating the housing and conservation planning program formerly established in RSA 4-C:24 through RSA 4-C:28, as enacted by 2007, 348.
- e. Consider property tax incentives to promote residential development density, particularly workforce housing.
- f. Consider preservation of open spaces and maintaining elements of rural character.
- g. Consider methods of enforcement of the shared community responsibility of workforce housing under RSA 674.
- h. Recommend any proposed legislation resulting from the work of the commission.

**Members**

Senator Martha Fuller Clark – Senate (**Chair**)

Senator Jon Morgan – Senate

Representative Tom Dolan – House

Representative Jane Beaulieu – House

Noah Hodgetts – New Hampshire Office of Strategic Initiatives

Christopher Way – NH Department of Business and Economic Affairs  
Elliott Berry – NH Legal Assistance  
Andrew Hadik – New Hampshire Municipal Association  
David Juvet – New Hampshire Business and Industry Association  
Matt Leahy – Society for the Protection of NH Forests, the Nature Conservancy, & the NHACC  
Chris Nadeau – American Council of Engineering Companies of NH  
Rene Pelletier / Rob Tardiff – NH Department of Environmental Services  
Ben Frost – New Hampshire Housing Finance Authority  
Keith Thibault – Housing Action NH  
Jennifer Czysz / Sylvia von Aulock – NH Association of Regional Planning Commissions  
Katelyn Kwoka – Governor's Millennial Housing Council  
Jeff Keeler – New Hampshire Association of Realtors  
Shanna Saunders – NH Planners Association

### **Purpose**

Purpose of the commission: to study how land use regulations and policies are currently restricting land use intensity in New Hampshire and what role the state could play in addressing this issue. Increased density is a means to more affordable housing.

#### **Increases in Density and in Development**

New Hampshire is primarily made up of rural communities with few urban centers. When considering zoning allowances for housing development, many of New Hampshire's rural communities require three acre or five acre lots for each single-family home. How can the state accommodate its growing senior population or provide young college graduates housing options with such restricted zoning? If that same three-acre parcel was allowed to be developed with a duplex, the housing density has doubled. On that same course, if lot size requirements were reduced from three acres to one acre, developers could reduce the price of the homes and the community might gain three different households that could contribute toward the local economy. There are many methods that would allow for an increase in density including conversion of existing homes to multiple units, encouraging accessory dwelling units, allowing for duplex and triplexes, allowing for smaller lots, and more diverse housing units including tiny houses, micro units and multifamily housing.

## **Meetings and Presentations**

Since November 2019, the Commission met 14 times — eight times in person and six times by Zoom, building on the work and presentations of the Commission from the first year of the biennium. Attendance and participation of Commission members was excellent.

The very comprehensive minutes from all the meetings, ably provided by Ben Frost and/or Noah Hodgetts, have been added as an addendum to this report. These minutes provide a much more extensive record of all the material that was presented to the Commission over the last 12 months than can be covered in this report. Rather a list of the dates, topics and some key observations are provided below.

November 5, 2019 – Noah Hodgetts reported on the work and findings of the Governor’s Housing Task Force, including an explanation of two legislative requests for 2020 as a result of their work

November 12, 2019 – Spencer Meyer of the Highstead Foundation provided an overview on the economic, environmental and health benefits to land conservation to New England, including New Hampshire. He included a handout entitled “Assessing the local economic impacts of land development,” published by Conservation Biology, fall, 2019. David Patrick of The Nature Conservancy - NH, followed with a presentation entitled “Development and Natural Resource Conservation”. Mr. Patrick additionally provided specific recommendations, both non-regulatory and regulatory, to ensure a balance between development and protection of the State’s natural resources, referenced Maine Special Area Management Program as important approach that might be considered for New Hampshire.

November 19, 2019 – Ben Frost summarized the presentations from the recent NHHFA Housing and the Economy Conference.

December 10, 2019 – Phil Sletten provided a presentation on “Demographics, Age Groups and Incomes in New Hampshire”. In addition to his slides, he provided Commission members with a handout and many charts.

December 17, 2019 – Ben Frost, New Hampshire Housing Finance Authority provided an overview of the current housing market in New Hampshire.

January 10, 2020 – There were no formal presentations. Commission members discussed among themselves challenges to providing affordable housing, including existing barriers

as well as examples of successful solutions from a number of towns as a result of specific zoning changes. At this meeting Andrew Hadik shared with the other members his list of possible recommendations to be considered by the full Commission.

February 7, 2020 – Rob Tardif, Department of Environmental Services, made a presentation on Subsurface Systems Bureau on Lot Sizing requirements. During his presentation, Mr. Tardif referenced a study done in 2002 by DES that included the observation that current lot sizes in the state could and should be smaller. He also stated that he does not believe the Department's current septic system requirements and the existing process are barriers to increasing density. Following this, there was a presentation organized by Amherst Rep. Reed Panasiti, accompanied by Amherst Town Administrator, Dean Shankle, Amherst Planning Board Chair, Michael Del Orfano, and Amherst citizen, Tim Krachner. The focus of their presentation was on how, over 20 years, "Density bonuses" given by the Amherst Planning board for planned residential development and elderly housing has had a negative impact on the development of affordable housing in their community.

March 6, 2020 – Zachary Swick, GIS Analyst, Southern New Hampshire Planning Commission, provided a slide presentation showing the conversion of landcover to development throughout the state from 2001 to 2016, including housing units per acre of land, housing units per impervious acre, impervious acres per housing unit and infrastructure per housing unit.

September 22, 2020 – This was the first meeting of the Commission since the closure of the State House in March due to COVID-19. It was held virtually using the Zoom platform. There were no formal presentations. The Commission reviewed its previous work and determined how best to proceed in the short time available over the next month by prioritizing key topics for future presentations.

September 29, 2020 – No formal presentations were given. At this meeting Commission members began a discussion on what recommendations should be included in the final report, including reviewing Andrew Hadik's suggestions from the January 10 meeting.

October 6, 2020 – The Commission received an update on the state of homelessness as a result of COVID-19 from Elissa Margolin, Executive Director of Housing Action NH and a presentation on the housing market from Ben Frost, New Hampshire Housing Finance Authority. There is increasing concern that, with the loss of federal support for those out of work, an increasing number of families and individuals will face eviction in the near future, adding to the state's existing housing crisis. Both presenters stressed the connection between rising homelessness in the State and the lack of affordable housing.

October 13, 2020 – Cordell Johnston from the NH Municipal Association spoke on the role of the Association in addressing municipal housing issues and shared with the Commission its latest housing policy positions. Considerable discussion ensued regarding the need for more training for land use boards and how that might be implemented. Lorraine Merrill, former Commissioner of Agriculture, Markets and Foods, co-author (with Peter Francese) of *Communities and Consequences II* then addressed the Commission regarding their latest publication (and the accompanying film by Jay Childs) and how it might be used to further educate local land use boards as well as the general public on possible solutions to the current affordable housing crisis facing the state. She is hoping that a viewing of this film can be provided to the newly elected legislature in the near future.

October 21, 2020 – Developers Steve Duprey, Carmen Lorentz, Kevin Lacasse and Michael Redding presented on the challenges they have faced regarding development of housing and offered suggestions as how the permitting process at the municipal level might be improved. Adoption of less stringent density requirements at the local level; enabling legislation that would allow for greater flexibility with regard to state building codes (as long as safety is not compromised) and consideration of eliminating zoning requirements that restrict development to just single family homes were just a few of recommendations. There is a need for micro-apartments, studios and single room occupancy units in order to address the state's current housing crisis. The developers agreed that working with local communities and residents regarding new housing developments ahead of submitting actual proposals to the land-use boards could also help in addressing the NIMBY problem. Another problem for developers is the lack of adequate water/sewer infrastructure to support increased development. More land opportunity for solar projects within municipalities, especially in rural communities, would also be very helpful. Finally, they all agreed that there is a need for better training of land-use board members.

### **Key Findings**

1. Greater education for communities, land use boards, and local residents about the need for new approaches to zoning that currently restrict the development of more affordable housing is sorely needed. Greater density in appropriate zoning districts is essential to addressing the chronic shortage of housing that is affordable at all income levels. Also, one of the greatest barriers is the NIMBY syndrome. Such an attitude is very difficult to overcome and for which there seems to be no easy solution.

2. The NH Regional Planning Commissions (in conjunction with OSI) appear to be the best vehicle to work with local land-use boards and community members as far as educating them about the need for more diversified housing and what are the best zoning tools avail that will still protect the overall character of each community. While having the expertise to do so, the Commissions are currently (and have been for years) seriously understaffed and underfunded. Each commission receives only \$11,000 a year in support from the state to carrying out their municipal planning functions that have been assigned to them by statute. The state allocation and dues from municipal members are simply not enough to carry out such work, While ideally positioned, the RPCs cannot take on additional tasks, so necessary to solve the state housing crisis, without a sizable increase in funding. Ideally state support in the amount of \$1.5 million is what is needed to fund a staff member at each RPC dedicated to providing local assistance and to fulfilling the RPCs' statutory mandates.
3. Many myths about the impact of greater housing density continue to act as an impediment to the creation of more affordable housing. Among them, the fear that more affordable housing will raise local property taxes due to increased enrollment in our publicly funded public schools. The Commission learned that throughout most municipalities in the State, enrollment is down while fixed operating costs remain constant, if not increasing. NH's population is stable and aging. For the future health of our economy, it is critical that the State, businesses, and local communities find new ways to make it possible for younger people to move to New Hampshire. Providing more diverse housing options, especially within our downtowns and village centers is one way to do so and could also help with our current workforce shortages.
  - I. Another myth is that the development of multi-family housing will cause a substantial increase in the school age population of a municipality. A number of studies have concluded that multi-family developments have little impact on school enrollment and that the impact that such development does have is substantially smaller than that of conventional single-family subdivisions.
  - II. Another myth is that conserving more open spaces has raised the cost of housing. Studies shared with the Commission dispute that, making the point that protection of a community's natural resources, including conserved open space and forestlands, is important for access to clean drinking water and clear air as well as agricultural enterprises and recreational opportunities. Zoning that supports and encourages greater housing density closer to municipal services and community centers is more

desirable to both younger people and senior citizens. More centralized denser development will also save towns and cities the cost of extending such services into outlying areas and help protect our existing open space.

- III. A third myth is that local zoning, which favors housing for over 55 residents, is a good approach to addressing senior housing concerns. Rather, finding ways for communities to incentivize multigenerational housing and mixed-use zoning are approaches that need to be considered in the future.

### **Recommendations**

1. Support and advocate for the re-introduction and passage of 2020 housing legislation, including HB 1629\*, HB 1632\*, and HB 1248\*.
2. Support and advocate for the re-introduction and passage of legislation\* that would re-instate the Housing and Conservation Planning Program (HCPP). If it cannot be funded during the next biennium, at least re-authorize the program in 2021 so it will already be in place for future funding. See minutes from September 2019.
3. Support further study of impacts to development, specifically impacts on school enrollment and property values, as many myths are associated with increased development and housing density. By studying actual impacts, stakeholders involved in land use applications will be able to utilize such studies to dispel myths.
4. Increase “targeted block grant” funding through the Office of Strategic Initiatives to the Regional Planning Commissions to \$1.5 million annually.
5. Revisit the idea of legislatively mandating professional training for members of lands boards that would be provided by the Regional Planning Commissions, so there would be no mandated costs to local municipalities. Such agencies as NHMA, NHOSI, and NHDES, working with the Regional Planning Commissions should be encouraged to create virtual training applications in a variety of land-use subjects. Additional outreach education for community members could also be provided over local public access cable TV channels.
6. Seek funding to provide municipalities with grants or other sources of financial support to develop ordinances specifically designed to enable the construction of additional affordable housing units. Such ordinances should be designed to enable higher development densities through the adoption of more flexible and innovative zoning



regulations.

7. Seek legislation to allow municipalities greater flexibility with regard to state building codes, particularly with regard to older buildings.
8. Spearhead additional outreach and virtual education for land use board volunteers, municipal staff and officials, as well as community members.
9. Request legislation to re-authorize the Commission to Study Barriers to Increased Density of Land Development in New Hampshire for another 2 to 4 years. Because of delays associated with the COVID-19 pandemic, the Commission was unable to address all of its statutory purposes. If solutions to the existing housing crisis in New Hampshire are to be implemented, the continuation of this Commission is essential. Remaining duties of the Commission are, but not limited to:
  - Determining minimum standards of residential development density by considering the availability of public water and sewer infrastructure or other appropriate alternatives and accounting for variability of environmental conditions;
  - Considering possible property tax incentives to promote residential density development, particularly workforce housing; and
  - Exploring possible methods of enforcement of the shared community responsibility of workforce housing under RSA 674.

\*Legislation that was submitted in 2020, passed in one body but was never heard in the other body due to COVID-19 and the shutdown of House and Senate.

Respectfully submitted, on behalf of the Commission

  
Senator Martha Fuller Clark  
District 21, *Commission Chair*

Attachments to this report:

Interim report, filed Nov 1, 2019

Minutes of Commission meetings November 5, 2019 - October 21, 2020

Please find handouts presented to the Commission at:

<http://gencourt.state.nh.us/statstudcomm/committees/1482/>

**Commission to Study Barriers to Increased Land Development in New Hampshire  
Chapter 300, Laws of 2019 (SB 43)  
Minutes of October 27, 2020**

**Zoom Meeting with no physical location, as authorized by  
Executive Order 2020-04 and Emergency Order 12**

**Members present:** Senator Martha Fuller Clark (Chair), Representative Jane Beaulieu, Representative Tom Dolan, Sylvia von Aulock (SNHPC), Jennifer Czysz (SRPC), Chris Nadeau (ACEC), Noah Hodgetts (OSI), Elliott Berry (NHLA), Andrew Hadik (NHMA), Christopher Way (NHBEA), Keith Thibeault (HANH), Matt Leahy (SPNHF), Ben Frost (NHHFA).

Chair Fuller Clark opened the meeting at 8:30 a.m.

**Minutes of October 13, 2020.** N. Hodgetts identified a scrivener's error in the motion on the minutes. Moved by A. Hadik, seconded by N. Hodgetts to approve the minutes as amended. With abstentions by S. von Aulock and K. Thibeault, there was an otherwise unanimous roll call vote in favor of the motion.

**Review draft of final report.** Chair Fuller Clark led discussion on the draft final report. She said that among the enumerated statutory duties, some have been completed but others remain outstanding (largely because of the loss of meeting time associated with the pandemic).

Statutory tasks completed:

- a. Review of current patterns of land development in New Hampshire, especially residential development and adaptive reuse of existing buildings.
- b. Identification of barriers to increasing the density of land development.
- d. Consider reinstating the housing and conservation planning program formerly established in RSA 4-C:24 through RSA 4-C:28, as enacted by 2007, 348.
- f. Consider preservation of open spaces and maintaining elements of rural character.

Statutory tasks not completed:

- c. Determine minimum standards of residential development density, considering the availability of public water and sewer infrastructure or other appropriate alternatives, and accounting for variability of environmental conditions.
- e. Consider property tax incentives to promote residential development density, particularly workforce housing.
- g. Consider methods of enforcement of the shared community responsibility of workforce housing under RSA 674.

List of members: add Rob Tardiff of DES in addition to Rene Pelletier; add Sylvia von Aulock representing the RPCs in addition to Jennifer Czysz.

Purpose of the commission: C. Nadeau commented that it's not just about zoning. Proposed to change text to read "land use regulations" and also to refer to "policies and practices." E. Berry requested that "could" in the final sentence be changed to "is".

Meetings: N. Hodgetts corrected two meeting dates to 11/19/19 and 1/10/20. He also observed that the Commission started meeting in September 2019. Chair Fuller Clark said those meetings were addressed in the Commission's interim report; she will make a note of that in the final report.

S. von Aulock suggested providing definitions of "workforce housing," "affordable housing," and "open space development." C. Way suggested providing a link to HCPP materials.

B. Frost said the definition of workforce housing is in RSA 674:58, as is a definition of affordable (30% cost burden). E. Berry urged that reference be made to Elissa Margolin's presentation, in which she provided statistics about the numbers of people who are overpaying for rent, and to recognize the extreme shortage of housing that's affordable.

S. von Aulock asked if an appendix could be added that includes all of the information provided at each meeting. Jenny Horgan said she will work with IT to create a new Commission page that will hold these materials.

C. Nadeau said that the meeting on 10/21/20 included discussion of the challenges facing land development and land use permitting processes and policies. Correct two presenter names to Carmen Lorentz and Kevin Lacasse.

#### Key Findings:

After discussion, it was agreed change the first paragraph to state that "greater density in appropriate zoning districts is essential to addressing the chronic shortage of housing that's affordable at all income levels."

S. von Aulock said that increased density can be achieved through multiple methods; rural zoning might require three acres for one house – allowing ADUs and duplexes could provide significant change; it's not about multi-family housing in all cases. S. von Aulock and J. Czysz will draft a sentence on this.

Third paragraph to be changed to read: "Many myths about the impact of greater development density, including housing development continue to act..."

First bullet: S. von Aulock said there was fear about any housing development, not just workforce housing. E. Berry said the greatest fear is about multi-family housing, that it will fill the schools with children and reduce the value of surrounding property values. E. Berry will draft an additional bullet focusing specifically on multi-family housing.

Add a "myth" bullet that addresses the specific concerns related to multi-family housing.

#### Recommendations:

Refer to recommendations by lettered list (a, b, c, etc.).

Add reference to 2020 HB 1248, which would have amended RSA 79-E to enable municipalities to create "housing opportunity zones" for new housing construction.

J. Czysz reviewed the funding recommendations from the RPCs (sent to the Commission members in October). The recommendation for funding is based on currently unfunded statutory mandates, including: regional comprehensive plan (including comprehensive community engagement); regional housing needs assessment – very important for communities’ understanding of their own housing needs; review of developments of regional impact. To do more than this and to fund a full-time staff circuit rider at each RPC would cost approximately \$150K each.

B. Frost noted that the request to fund statutorily mandated duties would be to increase funding from its current \$100K/year to \$600K/year. To fund each RPC with a circuit rider would cost an aggregate of about \$1.5M (including admin for OSI to administer the targeted block grant program).

J. Czysz said that the RPCs had discussed all of this and some were reluctant to present a higher amount than would be required to fulfill statutory mandates. Chair Fuller Clark said that it is important to state the need, and RPCs are in the best position to provide support for local planning functions. J. Czysz said that both could be done in the Commission’s report. There were no objections to taking this approach. E. Berry recommended striking “with the Governor’s support” as this would be a matter for the Legislature to address.

Chair Fuller Clark said that mandatory training of local board members should be revisited, provided there’s no local cost. This could be done with prerecorded webinars.

Housing and Conservation Planning Program: Include links to HCPP resources. Merge with this recommendation some of the language from the following recommendation, but to remove specific reference to transfer of development rights.

Building codes flexibility: E. Berry said this should include flexibility for the state fire marshal with regard to the state codes.

Chair Fuller Clark noted that the recommendations have three focus areas: RPCs, OSI, and HCPP

Moved by B. Frost, seconded by N. Hodgetts, that the Chair is authorized to prepare and submit the final report with amendments as discussed by the Commission today. There was a unanimous roll call vote in favor of the motion.

Chair Fuller Clark thanked all Commission members for their hard work.

Moved by B. Frost, seconded by C. Way that the meeting be adjourned. There was a unanimous roll call vote in favor of the motion.

The meeting adjourned at 10:00 a.m.

**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of October 21, 2020**

**Zoom Meeting with no physical location, as authorized by**  
**Executive Order 2020-04 and Emergency Order 12**

**Members present:** Senator Martha Fuller Clark (Chair), Senator Jon Morgan, Representative Jane Beaulieu, Representative Tom Dolan, Jennifer Czysz (SRPC), Chris Nadeau (ACEC), Noah Hodgetts (OSI), Elliott Berry (NHFA), Andrew Hadik (NHMA), Jeff Keeler (NHAR), Christopher Way (NHBEA), Ben Frost (NHHFA).

Chair Fuller Clark opened the meeting at 8:34.

Minutes of October 13, 2020. M. Leahy noted that he had been present at the meeting. Moved by N. Hodgetts, seconded by A. Hadik to approve the minutes as amended. With E. Berry, J. Keeler, and Senator Morgan abstaining, there was an otherwise unanimous roll call vote in favor of the motion. WiEB JK JM abstain There was a unanimous roll call vote in favor of the motion.

**Developer Panel Discussion, including Steve Duprey, Carmen Lorentz, Kevin Lacasse, Michael Redding**

S. Duprey observed that there was a local reaction in the 1980s with the creation of regulatory barriers; there have been improvements since then. Regulatory barriers have a direct impact on housing affordability, with density as the single biggest barrier. For example, in Texas it's common to have 60 to 80 units/acre in mixed use property. Such densities are unheard of here. The pandemic has impacted upon the price of materials; framing lumber has doubled in cost in the past 5 months; it has also negatively impacted the timing of shipments. As for impediments to workforce housing, communities must be more generous with density. For example, with the NH Employment Security building on South Main Street in Concord, he couldn't make the numbers work for workforce housing; it was tough even to pencil out at high end market rate. Beyond that there were building code issues. The state building code overall is good but doesn't allow for flexibility, especially in rehabilitation. The Legislature should allow municipalities to vary the code to allow for flexibility without compromising on safety. For example, in Portsmouth, the Dolphin Striker restaurant bathroom access doesn't meet code nor does its lift. Variances were allowed because it was an historic structure and the Portsmouth Mayor has power to vary the code. Enabling legislation should allow municipalities to vary the code to allow for rehabilitation of older structures that don't perfectly meet the code.

S. Duprey said that the Department of Environmental Services is much more supportive proactive and solution oriented than it formerly was. The Department's response is good; the biggest impediment is staff workloads, which also applies to the Attorney General's office regarding review of condominium documents.

S. Duprey said that in Concord, the new zoning code is focused on increasing the density in areas that are already built. This will have a ripple effect throughout the City. He recommended the elimination of zoning that provides only for single-family uses. He said that mandatory inclusionary zoning would only increase the cost of market rate units

C. Way asked whether local officials would be more restrictive with the building code. S. Duprey found it hard to imagine how they would be more stringent than the state code, and that it was more likely that they'd find compromise.

E. Berry said that allowing for mandatory inclusionary zoning was part of the Governor's housing proposal. In some communities, it's almost impossible to build anything affordable (e.g., Portsmouth). S. Duprey said that mandatory inclusionary zoning might be OK in a few extraordinary communities what can bear higher rents. In Hanover, Portsmouth, and maybe 2-3 others it would work; but not in the remaining communities. The bonus system in Massachusetts with state override is pretty effective but unlikely to work in New Hampshire.

J. Keeler said that it seems unlikely to get towns to increase density, but transfer of development rights (TDR) is a possibility. Would it help with affordability? S. Duprey said that it would help at the margins, and could be a useful tool.

Carmen Lorentz, Executive Director of Lakes Region Community Developers (LRCD). LRCD is a developer of affordable housing and community facilities. It has built 366 rental apartments in the region in over 30 years. It is currently working on a single-family development in Wolfeboro.

LRCD seeks to establish partnerships with communities and to work with them before proposing a project. They also respond to communities that ask for help. Lack of sufficient infrastructure is main impediment to development. In Laconia, where LRCD has 1/3 of its rental portfolio, infrastructure is not a problem; but other communities lack infrastructure to support density. She is hopeful for the future passage of legislation modeled on HB 1632, which would have enabled the use of Tax Increment Finance Districts for the creation of housing. This would have been a game-changer in some communities. Cost of materials currently is a problem; with several projects in the pipeline, they're hoping that the costs come down when those projects are ready to go. She observed that it's important to protect the funding dedicated to the Affordable Housing Fund, as projects will need additional subsidy.

Chair Fuller Clark asked about community resistance to development projects. C. Lorentz said that the Eastern Lakes Region Housing Coalition did a lot of grassroots advocacy in Wolfeboro, which has made LRCD's single-family project easier there. She said they experienced some push back against rental housing development a couple years ago in Laconia from existing landlords.

E. Berry asked about the importance of water/sewer infrastructure. C. Lorentz said it was extremely important to achieve density necessary to ensure housing affordability. E. Berry asked about on-site technologies. C. Lorentz said they use community wells and septic systems, but they are expensive to develop and maintain.

Kevin Lacasse of New England Family Housing in New Hampton. He said they develop single-family, multi-family housing, do new construction and rehabilitate existing structures; construct workforce and market-rate housing. They've done work in Berlin, Claremont, Franklin, Bristol, and Rochester. They've also developed manufactured housing parks as well.

They got local approval in Bristol for new construction of 32-unit workforce housing with 18 2-bedroom and 14 one-bedroom units. No variances, special exceptions, or waivers were required, so they assumed a quick approval, yet it took 14 meetings for the planning board to approve the project. One problem they faced was that at the 11<sup>th</sup> meeting the planning board said the access to the property was

too narrow, so they had to acquire additional property. Engineering costs are extraordinarily high, and their 2016 permits for the Bristol project for water treatment by DES would not now pass DES standards. There is always a lot of public push back against projects.

In Tilton, they did a 24-lot cluster subdivision. They already owned a manufactured housing park on adjacent property and would have extended that park except that it was not an allowed use (the existing park had lot sizes of about 5,000 square feet, but 10,000 square feet was required per lot). There are a lot of arbitrary requirements, including zoning setbacks and lot coverage requirements.

K. Lacasse recommended mandatory training for planning and zoning board members. It's great to have volunteers, but it's detrimental if they don't know how to read the regulations and just impose their own opinions. DES regulations keep getting stricter; he agreed that the staff is great, but there should be a cost benefit analysis of any new regulations.

Referring to the Bristol project, B. Frost asked whether it would help to limit the time during which a board could identify new issues that had to be addressed. K. Lacasse said yes, and also limit the time available for boards to accept applications for review.

J. Keeler said that training is important, and that board members should be instructed to manage the existing regulations whether or not they like them, rather than choosing to ignore them or make up new standards.

Rep. Beaulieu agreed that mandatory training important; HB 1632 would have required it, but that provision was removed by the House.

Michael Redding, New England Solar Garden. Regarding net metering, the 1 megawatt rule is a challenge to buildability and financing of solar projects. Also, in Eversource-controlled districts net metered solar projects must be on land that hasn't been subdivided in the last three years. They need 5-8 acres for projects, so they're often pushed out into areas that are harder to develop. When they find land that meets the criteria, not being able to subdivide is a significant obstacle. They've also experienced zoning and planning board challenges, as is the NIMBY factor. They address it with fencing and vegetative buffers; but knowing what the rules are different in each community

Planning and zoning board training would be helpful, as it's frustrating to have to overcome personal opinions. Part of the remedy is to have a competent chair or planning staff; that seems to help manage the issues well.

C. Nadeau asked him to explain the 1 megawatt net metering rule. M. Redding said that projects limited to that maximum size for power generation. Most New England neighboring states have increased to a 5 megawatt maximum. Increasing the limit would provide an economy of scale to add to project economic feasibility, as upgrades to connect a system are the solar developer's responsibility.

A. Hadik said that the 1 megawatt cap is ludicrous, and he supports the cap being raised to 5 megawatts. Chair Fuller Clark said she has chaired the Senate Environment and Natural Resources Committee and has worked with the House Science, Technology, and Energy Committee on this, but they can't get the Governor's support.

M. Leahy asked about challenges of siting facilities on land that has already been developed. M. Redding said the problem is finding the financial investors who will take on that risk; size of the land is an issue: a 1 megawatt project will take 5-8 acres; a 5 megawatt project could be upwards of 25 acres.

C. Way mandatory training for local board members seems different post-COVID, and there may be an opportunity to revisit this issue in the legislature. He asked if there was any value to federal Opportunity Zones. K. Lacasse said they'd looked at a couple projects in Opportunity Zones, but they didn't provide a lot of advantage; some others look more promising. C. Lorentz said they haven't looked at such projects, but the Laconia State School site is a possibility. S. Duprey said he has done a lot of New Markets Tax Credit projects (limits residential uses to 30% of a project), which provides up to 25% of project cost; he's looked at Opportunity Zones but hasn't yet found a viable project. The revision to RSA 79-E that allows for new construction if an existing building has to be demolished has been very helpful.

Under RSA 79-E, S. Duprey suggested giving a longer period of relief for WH. That would be more effective than Opportunity Zones.

E. Berry said that planning board member recruitment may be made more difficult with mandatory training, and asked whether the RPCs could be asked to fill those gaps – with additional funding. He said he can't see how communities should have the authority to administer a zoning ordinance without a properly functioning planning board.

C. Lorentz said the main issues are density and funding, and that there are no magical solutions. LRCD has done more supportive housing development with some funding from the state legislature through NHHFA for transitional housing.

S. Duprey said the main issues are density of housing units, a need for more flexibility in the state building code. There's an unmet demand for micro-apartments, local codes limit their development, Developers should be given incentives to do single-room occupancy units or studios. There should be a bonus for funding by the state if a developer includes single-room occupancy units.

The meeting adjourned at 10:00AM.



**Commission to Study Barriers to Increased Land Development in New Hampshire  
Chapter 300, Laws of 2019 (SB 43)  
Minutes of October 13, 2020**

**Zoom Meeting with no physical location, as authorized by  
Executive Order 2020-04 and Emergency Order 12**

**Members present:** Senator Martha Fuller Clark (Chair), Representative Jane Beaulieu, Representative Tom Dolan, Representative Reed Panasiti, Sylvia von Aulock (SNHPC)/Jennifer Czysz (SRPC), Chris Nadeau (ACEC), Noah Hodgetts (OSI), Keith Thibault (HANH), Andrew Hadik (NHMA), Mark Laliberte (NHBEA), Ben Frost (NHHFA). Also present: Lorraine Merrill, Cordell Johnston.

Chair Fuller Clark opened the meeting at 8:30.

Minutes of October 6, 2020. Moved by Andrew Hadik, seconded by Noah Hodgetts to approve the minutes as submitted. There was a unanimous roll call vote in favor of the motion.

**Discussion by Cordell Johnston, NH Municipal Association.** C. Johnston said that municipalities, and NHMA particularly, are sometimes perceived of as obstacles to housing, especially affordable housing development. He said that is not the desire of NHMA, but that the reality is that it's a membership organization representing all municipalities with many different perspectives. NHMA doesn't control the municipalities, but rather they control the association. Staff attempts lead from behind and gently nudge in particular directions. Many municipalities are trying to do the right thing. He pointed to NHMA's recently adopted housing policy positions on housing as demonstration of the association's forward-thinking views on housing.

He said that it seems that many of those communities that are more favorable to housing are cities, as well as towns that have a town council with zoning adoption power. Most towns in NH have zoning adopted and amended by town meeting, where social media campaigns can lead to "mob rule" decision making.

He identified significant recurrent issues as perceptions of costs by taxpayers, as well as the NIMBY ("not in my backyard") perspective. He said he has no idea how to solve the second problem. But the first problem can be addressed by education about dispelling some of the myths of the costs that housing will bring to the town. Education should target local officials, land use boards, governing body officials, and the general public. Other solutions involve money, such as: more funding for RPCs; infrastructure – water and sewer (and other) that makes housing more available/easier to accommodate more densely developed housing. In the 2020 Legislative session, HB 1632 contained incentives for municipalities and developers (developers have costs that they need to cover). He expressed skepticism that it would make a big difference, but it would be an improvement.

Years ago, the State encouraged municipalities to build water treatment facilities and established the state aid grant program; a similar program for housing would be wonderful, though it's not the municipality's responsibility to build housing. Anything we can do would to help municipalities accept greater density of housing would be a step in the right direction.

C. Johnston said that state tax policy in general is a factor. Education is funded almost exclusively by local property taxes, and this weighs heavily on people's minds and affects their decisions.

Rep. Beaulieu asked how NHMA represents the positions of municipalities. C. Johnston said that the positions come from member municipalities themselves; NHMA has a process that provides biennial review of existing policies and an opportunity to provide new proposals. These policies are adopted by municipal representatives. (The current policies related to housing are appended below.)

B. Frost said that he'd been working with NHMA staff for almost 20 years, and while they don't always agree they have usually found a place of compromise. He asked about HB 1629. C. Johnston said he recalled that NHMA's main concern was the provision requiring training of local land use board members, which was removed. He said he thought the remainder were things we could live with. There were some tighter restrictions, but nothing unreasonable and things municipalities probably should be doing anyway.

S. von Aulock commented that we are not packaging some of our policies in a way that's acceptable, as the use of the terms "affordable" or "workforce" housing that prevents legislation from moving forward in an innovative direction.

C. Johnston said he's not sure that the problem is with the legislation. He said that HB 1629 and HB 1632 died as a result of changes to the legislative session because of the COVID-19 pandemic, and not other reasons. He said that problems certainly exist at the local level, such as understanding and following the law. But he noted that it's not just local officials, but also the voters that control the local law and adoption process.

Rep. Beaulieu said that mandatory training of local officials is the key. People need education. C. Johnston said that was the one piece of HB 1629 with which NHMA disagreed. Education is an issue, but simply requiring land use board members to take a few hours of training every year could be seen as an unfunded mandate. And if people see that as only an obligation, they'll do the training and it won't change their minds anyway.

Chair Fuller Clair asked about the relationship between NHMA and the regional planning commissions. C. Johnston replied that it's not a formal relationship, but that they're in frequent communication with the RPCs. The RPCs work with NHMA in providing sessions at NHMA's annual conference; NHMA's members are their members; NHMA and the RPCs work in tandem. Chair Fuller Clark asked what could be done to influence people's perceptions; what is being done in other states? C. Johnston said he wasn't aware of what's happening in other states, except that he's aware that others have more aggressive laws about development of affordable housing. He said that NH is not the only place in New England or in the country that has these kinds of issues. Chair Fuller Clark asked whether it would be useful to have a commitment that NHMA would host housing presentations at its conference every year as a conscious effort? C. Johnston said he thought it was a good idea, and he will take back to those in a position to do this.

J. Cysz said that she'd emailed information to commission members yesterday on improved funding for RPCs to fulfill their statutory obligations. S. von Aulock said that training of local officials would need to operate almost as a certificate program; she said that some board members always go to training, but many never go. What would be required of them? N. Hodgetts said that OSI already provides planning board and board of adjustment basics sessions at its annual planning and zoning conference. There will also be sessions at the NHMA conference in November. They're gearing up to do recorded webinars so people can review after-the-fact.

N. Hodgetts said they're not in a position to do presentations to individual municipalities as they lack staff capacity. Rep. Dolan said that the House Municipal and County Government Committee supported the idea of video training to be distributed to municipalities so that boards could review the recordings at their regular meetings. This would minimize the cost and effort of the training. Chair Fuller Clark asked what were the most important trainings? N. Hodgetts replied that the basics of board operations and the decision making process were most important.

**Discussion by Lorraine Stuart Merrill, co-author with Peter Francese of *Communities and Consequences II*.** L. Merrill said in addition to the book there was also a companion documentary film by Jay Childs that will air on NHPBS on Thursday 10/22 at 8pm. Education of local officials and concerned citizens is the objective of this effort.

This book follow-up on the sharp demographic imbalance in New Hampshire, which has gone from being slightly younger than the national average to now being the second oldest state in the country (behind Maine).

She said there is a shortage of volunteers in all endeavors and there is a shortage of mid-wage workers. This has been shown starkly during the pandemic by a great strain on "essential workers," particularly in food system employment. These are the people who have the hardest time finding housing. Also, there are lots of affluent seniors who require services. Service sector employees struggle with the cost of housing and transportation. Despite this, they authors have found some creative solutions being employed throughout the state.

She said that the book and film focus on what some communities are doing to improve the situation in the hope of inspiring others. In Lancaster, the town adopted a form-based code to revitalize their downtown. All stories in the book are "intergenerational" stories. Not just seniors, but also involve high school students in planning work. The stories feature historic preservation work, including reuse and repurposing of buildings to enhance downtown vitality. Rehabilitated buildings have apartments on the upper stories, commercial and office space on the ground floor.

In Lancaster, the story features Greg Cloutier – a successful person whose retirement idea is to invest in his community. He's been working with the Northern Forest Center on the Parker J. Noyes building. Many communities have zoned out residential uses in commercial areas, but it's the people who live in the downtown that make it lively and desirable, including young professionals and older people who want to downsize. She commented that this Commission has focused on zoning and building code restrictions, as well as water and sewer infrastructure; and the myths about development, the biggest of which is that large lot sizes are good for conservation (nothing could be more wrong, it's just the opposite). It requires a lot of education to get that out of people's heads; denser development allows for more conservation.

Another myth is that greater housing density allowances for age-restricted housing is a good thing – but increased density for everyone else is not. This is tied to the myth about the relationship among schools, costs, and children. There may be a shred of truth from the growth patterns in the 1980s, and some people still have that shell-shock from development then. But more recent population growth has been almost negligible. Underpopulated schools are more costly to maintain. Young people will become our future leaders and taxpayers. Fostering creativity and diversity is important. Will Stewart (Stay Work Play) and Todd Fahey (AARP NH) joke that they advocate for the same things as so much of

what appeals to the young also appeals to older residents: walkable communities; more affordable housing; access to public transportation; community diversity.

Another great example is Pelham, which voted last town meeting to eliminate the development of any future age restricted housing. Already plenty has been developed in town. There's been an influx of affluent out of state people, who then applied for favorable property tax exemptions. The thumb on the scale against younger people.

In the Upper Valley, employers working together to help solve housing problems. DHMC is building housing for employees. Another example (but not in the book) is in Dover, where there is a current proposal for 40 cottage-style houses proposed by employer for its employees.

In Bradford, young adults came back to town and founded the Kearsarge Food Hub, along with market that has been enormously successful.

L. Merrill said "it's a matter of showing up." There is a strong motivation for people to come out against something. Supporters of good things tend to be quieter.

Chair Fuller Clark asked whether the book is available. L. Merrill said that it is in all independent bookstores and available online. She said NE Delta Dental has underwritten the cost of a copy for every public library in the state. NHPBS is looking to schedule a legislative screening of the film in January.

M. Laliberte commented that high-end homebuyers want to retain the value of their homes, and may resist anything that threatens that. L. Merrill said that they need to appeal to a more enlightened approach to decision making.

Next week's meeting would feature a developer panel discussion.

B. Frost made a motion to adjourn, seconded by A. Hadik. The motion passed by unanimous roll call vote. The meeting adjourned at 10:10AM.

### Housing

NHMA recognizes the need for diverse and affordable housing in New Hampshire and the responsibility of each municipality to afford reasonable opportunities for the development of diverse and affordable housing. NHMA believes municipalities should have discretion in how to satisfy this responsibility and supports legislation that enables municipalities to find innovative ways to ensure an adequate supply of housing.

#### NHMA supports:

- Legislation that allows municipalities to require the inclusion of affordable and diverse housing opportunities as part of new housing developments;
- Financial and other incentives to municipalities to encourage development of diverse and affordable housing;
- Statewide efforts to provide housing for those recovering from substance misuse, subject to reasonable municipal regulation;
- Policies that encourage documentation and financial traceability of cash and bartered rental transactions;
- Legislation and policies that encourage creative and flexible approaches to meeting housing needs of current and future demographics in different regions.

#### NHMA opposes:

- Legislation and policies that allow for or encourage housing practices that exclude people from and decrease the availability of quality, affordable housing;
- Legislation that erodes local control over land use decisions.

### Land Use

NHMA supports the long-standing authority of municipalities to regulate land use matters with minimal interference from the state.

#### NHMA supports:

- Legislation authorizing municipalities to regulate short-term rentals of residential properties, including licensing requirements and health and safety protections;
- Legislation enabling municipalities at their discretion to adopt more recent editions of national/international building and fire codes than the current state-adopted editions.

#### NHMA opposes:

- Legislation that limits municipal control in implementing statewide priorities in zoning and land use regulation;
  - New state mandates requiring municipalities to allow specific types of housing;
  - All other statewide land use mandates.
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**Commission to Study Barriers to Increased Land Development in New Hampshire  
Chapter 300, Laws of 2019 (SB 43)  
Minutes of October 6, 2020**

**Zoom Meeting with no physical location, as authorized by  
Executive Order 2020-04 and Emergency Order 12**

**Members present:** Senator Martha Fuller Clark (Chair), Representative Tom Dolan, Representative Jane Beaulieu, Chris Way (NHBEA), Jen Czysz (SRPC), Chris Nadeau (ACEC), Noah Hodgetts (OSI), Keith Thibault (HANH), Elliott Berry (NHLA), Andrew Hadik (NHMA), Rene Pelletier (NHDES), Ben Frost (NHHFA). Also present: Representative Reed Panasiti, Elissa Margolin.

Chair Fuller Clark opened the meeting at 8:30.

Minutes of March 6, September 22, and September 29, 2020. Regarding the minutes of September 22, there were a couple misspellings and A. Hadik requested to include his discussion of the Chester town meeting. Moved by Elliott Berry, seconded by Keith Thibault to approve the minutes, including changes to the minutes of September 22. With Rep. Beaulieu and J. Czysz abstaining, there was an otherwise unanimous roll call vote in favor of the motion.

Presentation by Elissa Margolin, Executive Director, Housing Action NH and Ben Frost, New Hampshire Housing. E. Margolin presented issues of homelessness in New Hampshire, observing that increased housing density allows for greater housing affordability, including for people who are homeless or at risk of homelessness. Homeless people often require supportive services to address issues of substance use disorders and other disorders that are often co-occurring, trauma from domestic and sexual violence, and other issues that have made it difficult to maintain residency.

During the coronavirus pandemic, the state initially established three quarantine sites and worked on homeless shelter decompression strategies. The NH Charitable Foundation established a \$400,000 for the shelters to continue operations, which was augmented by \$150,000 from New Hampshire Housing.

Homeless encampments have grown because many people couldn't safely stay in shelters during the pandemic. Shelters have operated at reduced capacity required by social distancing protocols.

She requested that the Commission consider making the connection between lack of affordable housing and homelessness. The last Point-In-Time Count found 1,382 homeless people in New Hampshire. The Department of Education maintains dataset of homeless or housing insecure students that tends to be double the PIT Count. She asked the Commission to consider making a policy recommendation to make it easier to build supportive and affordable housing locally. In the 2020 Legislative session HB 1629 and 1632 would have made significant improvements to the ability to develop housing. The reestablishment of the Housing and Conservation Planning Program would have recaptured an important approach from a decade ago to provide resources to municipalities. She said in the upcoming legislative budget discussions, it would be important to protect the allocation to the state's affordable housing trust fund.

Chair Fuller Clark asked E. Margolin to speak about evictions. E. Margolin said that in New Hampshire, CARES Act funding had been used to establish a \$35MM rental assistance fund; the CDC eviction moratorium was providing some relief to people who might otherwise become homeless. She said it

was particularly difficult for people to find housing, partly because of the overall low vacancy rate and partly because people aren't moving as much, leaving units vacant even for a short period. She noted that landlords need assistance as well, with fewer tenants paying rent.

Chair Fuller Clark asked if there had been any initiatives working with banks and landlords. E. Margolin noted that federally-backed mortgages were subject to forbearance relief under the CARES Act. B. Frost said that in the New Hampshire Housing portfolio of multi-family housing, there were no properties that had sought forbearance from mortgage payments. Their single-family mortgage portfolio was closely tracking national trends.

B. Frost said that based on what they'd heard from the NH Bankers Association, local banks are working with their borrowers to provide the same or similar relief to that of the CARES Act. Roughly on third of all single-family mortgages in NH are not federally backed.

E. Berry said that in normal times, there are roughly 7,000 eviction filings, and about 4,000 writs of possession issued. In addition to the writs of possession, many people facing an eviction action simply leave their residences and don't contest the action.

Rep. Beaulieu asked if would help to have the names of homeless people and their children – to put faces to the numbers. E. Margolin thanked her for the suggested and noted that there is ongoing outreach to do that, but that many living in encampments prefer to be anonymous. Many have also found that there is greater safety in the encampment community than in some other settings.

Chair Fuller Clark ask about the demographics of the homeless population and noted that while they are concentrated in larger urban areas, there are also many homeless people in smaller communities and in rural areas. E. Margolin observed that the numbers of homeless families, as well as homeless veterans have decreased significantly because of targeted efforts. But there is currently a concerning 12% increase in the numbers of homeless students. E. Berry said that the shelters are in the largest communities and that's where homeless are counted, yet there are homeless people all over the state. He said it might be useful to collect data from school district homeless liaisons through the Department of Education, as well as from local welfare administrators.

B. Frost discussed various programs that help people to obtain and remain in homes, including the Housing Choice Voucher Program and Veterans Affairs Supportive Housing Program. These both provide rental assistance, but when competing for housing in a market with an extremely low vacancy rate, it's hard for voucher recipients to find a landlord willing to take the voucher. That said, during the pandemic they've seen an increase in the number of landlords interested in the program because it is recognized as a stable source of rental income for landlords. He said that the state's affordable housing trust fund will start to receive an annual allocation Ben

Regarding municipal assistance, B. Frost said that New Hampshire Housing had established the Municipal Technical Assistance Grant Program, partly modeled on the Housing and Conservation Planning Program but focusing specifically on helping communities revise their land use regulations to make them more "housing friendly." This program is administered by Plan NH. He said New Hampshire Housing also provides mini-grants of up to \$5,000 to communities and local groups to help advocate for better local housing policies.

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Minutes, October 6, 2020*

B. Frost said that New Hampshire Housing would soon be publishing a new Housing Market Report and he addressed a few of the issues covered, including places from which incoming home-buyers were coming and what factors were important for people choosing to move to or stay in New Hampshire. The top factors include family, the natural environment, quality of life, and employment.

E. Berry asked about manufactured housing as an option and whether municipalities are complying with the law. B. Frost said he'd not done a systematic analysis, but generally when reviewing a local zoning ordinance he's found that municipalities typically meet the statutory requirement of allowing manufactured housing. B. Frost noted that new manufactured housing is of high quality and doesn't depreciate in value.

Chair Fuller Clark discussed the remaining meetings of the Commission. Next week, the NH Municipal Association and Peter Francese/Lorraine Stuart Merrill will be asked to make presentations. In the following week, B. Frost will seek to assemble a panel of developers.

Rep. Dolan said it would be helpful to have good examples of higher density development. Chair Fuller Clark agreed this was a good idea and would consult with B. Frost and N. Hodgetts on this. J. Czysz said that the RPC directors were developing a funding recommendation to deliver to the Commission.

A motion was made to adjourn and was seconded. There was a unanimous roll call vote in favor of the motion. The meeting adjourned at 10:05 AM.



**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of September 29, 2020**

**Zoom Meeting with no physical location, as authorized by**  
**Executive Order 2020-04 and Emergency Order 12**

**Members present:** Senator Jon Morgan, Representative Reed Panasiti, Chris Way (NHBEA), Noah Hodgetts (NHOSI), Keith Thibault (HANH), Elliott Berry (NHLA), Ben Frost (NHHFA), Matt Leahy (SPNHF), Andrew Hadik (NHMA), Rene Pelletier (NHDES) joined the meeting late.

The start of the meeting was delayed until a quorum was established at 8:47 AM.

B. Frost chaired the meeting in Senator Fuller-Clark's absence. Approval of the March 6, 2020 and September 22, 2020 meeting minutes was deferred until the Commission's next meeting on October 6, 2020. B. Frost reminded everyone that the Commission's final report is due on November 1, 2020. Rep. Panasiti said that he submitted a request to the Governor's office to extend the November 1<sup>st</sup> reporting deadline. B. Frost mentioned that this could also be done through legislation, but couldn't happen until the legislature was back in session in January.

B. Frost stated a potential recommendation of the Commission could be to restart the Housing and Conservation Planning Program (HCPP). After giving a brief overview of the HCPP's previous iteration, B. Frost noted that Jen Czysz gave a detailed presentation about the HCPP to the Commission in Fall 2019. B. Frost said he would be happy to work on assisting with writing legislation to restart the HCPP, once a prime-sponsor is identified.

B. Frost reviewed Andrew Hadik's January 10, 2020 Commission recommendations. The first recommendation is "to provide municipalities with grants or other sources of financial support to develop ordinances specifically designed to enable the construction of additional Workforce Housing units. Such ordinances should be designed to enable higher development densities using zoning innovations such as the Transfer of Development Rights (TDR), without requiring municipalities to reduce the minimum lot-sizes required by their current zoning."

B. Frost went over the mechanics of TDR and said that Dover is the only community that really actively uses it. He also noted that much of the first recommendation could be achieved through the restarting of the HCPP. N. Hodgetts agreed and said that this recommendation could also be carried out as part of the Housing Champions Certification program, contained in HB 1632, which didn't pass during the last legislative session.

C. Way asked if recommending funding for such a grant program is shooting ourselves in the foot given the current fiscal environment. B. Frost said that the House Ways & Means Committee unanimous approval of HB 1632 out of committee during the last legislative session could be used as a model. In such a model the framework for the program is created with the understanding that the program would be funded in the future when the fiscal environment improves. C. Way said he favored a shared funding model.

B. Frost read through the second recommendation:

“Provide RPCs with additional funding for “circuit rider” planners with the specific mission to visit their local planning boards to educate them about critical regional and state issues (i.e. the WFH and AFH housing shortages). These planners should provide information about new and innovative solutions, as well as encouragement and information about the benefits in addressing these issues. The planners could also provide informational interviews to the smaller local newspapers that service the more rural communities.”

B. Frost said that the Commission was waiting to receive an exact figure from Sylvia von Aulock or Jen Cysz on suggested future RPC funding levels. C. Way says this is a tough sell this year. N. Hodgetts in response to a question from B. Frost said that the RPC grants were not cut from OSI’s budget for the current fiscal year as part of the Governor’s request to cut agency budgets by 15%, but that he wasn’t aware of the level of RPC funding being recommended in the next biennium budget. E. Berry suggested that additional RPC funding be contingent on completion of additional tasks such as completion of Regional Housing Needs Assessment, which B. Frost noted state statute requires RPCs to update every five years.

B. Frost read through the third recommendation: “Have DES’s “Innovative Land Use Controls Guidebook” updated and pushed out to all members of local planning and zoning boards.”

N. Hodgetts noted that OSI will take over hosting the Innovative Land Use Planning Techniques Handbook on its website in the near future, but that it doesn’t have funding to complete a comprehensive update at this time. E. Berry suggested that a recommendation be made to include funding to complete such an update. C. Way suggested applying for an Economic Development Administration (EDA) grant to fund the update, which contains an 80/20 match requirement. B. Frost and M. Leahy agreed this was a good idea.

B. Frost suggested drafting a recommendation that OSI convene a new editorial board and seek new sources of funding such as an EDA grant to complete such an update. C. Way said that the Northern Border Regional Commission may be another source of funding.

B. Frost went through the fourth recommendation: “create an online “one-stop shop” information portal from which community officials and board members can obtain information about the various resources (e.g. grants, innovative zoning techniques) available to address these types of issues. There should also be regular informational/update emails to help encourage use of the website.”

Ben said that this recommendation was similar to a recommendation included in the Governor’s Housing Taskforce report issued in October 2019. B. Frost noted that Willis Griffith will be the prime sponsor for the two housing bills which came out of this taskforce from last session, HB 1629 and HB 1632 in the coming 2021 legislative session. N. Hodgetts clarified that this recommendation was supposed to be part of the work of the Joint Housing Resources Council, which was to be established by Executive Order and then COVID hit and derailed this. N. Hodgetts will circulate the Governor’s Housing Taskforce Recommendations for discussion at the next Commission meeting.

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B. Frost went through the fifth recommendation: "In dealing with these issues, it is critical not to underestimate the value of educating the public! Informational presentations should be produced that discuss the issues, the various possible solutions, and the benefits and examples of how communities have addressed them. Many communities have local public access cable TV channels run by volunteer committees or municipalities. These PACT channels could be used to air or stream to help get the "messages" out. The "circuit rider" planners could also provide informational interviews."

B. Frost suggested that many people don't have local public access television as part of their cable tv package, but the Commission could expand upon this recommendation to include contemporary social media. C. Way said that to be proactively prepared for social media attacks, there must be accurate clear messages to put out to the public.

B. Frost went through the sixth recommendation: "Push out data and studies that disprove the misconceptions that more development will increase taxes because it will add children to the school systems at the same rates (students per dwelling unit) experienced back in the 1980's, 1990's and 2000's. These studies should also compare & contrast the projected net growth of student enrollment for new developments with the current and projected decline rates."

B. Frost said that NH Housing has funded a number of studies over the years which dispel this myth even though neighbors of proposed housing projects continue to sight this as a reason land use boards should reject such projects. B. Frost in response to a question from E. Berry said that these studies include three bedrooms B. Frost mentioned an article in yesterday's Union Leader highlighting the building boom in Merrimack which could result in an estimated 250 new school-aged children living in 1,200 housing units which are currently in the pipeline.

E. Berry asked about the fiscal impact of schools being underutilized. B. Frost said that Professor Richard England studied existing schools, which are fixed capital facilities and found that a reduction in enrollment leads to reduction of education funding/revenue sharing from the state. B. Frost added that the pattern of declining school enrollment is a problem state wide largely due to being an aging state, with a predominantly white population. Rep. Panasiti said that in his community of Amherst renovating aging school facilities would require increasing the property tax rate, which is very controversial.

C. Way recommended an ongoing marketing/education campaign that includes more aggressive social media to combat these myths about housing which have derailed many housing projects. N. Hodgetts said that while additional data and studies are helpful, Not In My Backyard opponents to housing projects can't be reasoned with based on data and studies. C. Way asked then how are we going to educate the public? E. Berry said it is fundamental that we accept in making recommendations that neighbors don't want their neighborhoods to change.

B. Frost suggested a vigorous statewide campaign to make the public more favorable to housing development, when a project is proposed in their neighborhood, could be beneficial. C. Way agreed and said it is less about marketing and more about messaging. Sen. Morgan asked where the funding to quash/quell progress or housing developments comes from. E. Berry said that it usually doesn't require money, but just a few vocal neighbors who oppose a project at a public hearing. B. Frost added that

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often all it takes to kill a project is just a couple of people with the time and energy to organize a larger group of neighbors to oppose a development or underwrite a lawsuit challenging the decision.

Sen. Morgan asked if there is a political solution to this issue. Can Democrats, Republicans, Independents, Libertarians put aside their differences and address the housing shortage in one concerted effort? B. Frost said that this approach worked with passage of the Accessory Dwelling Unit law a few years ago when House Democrats and Libertarians concerned with property rights teamed up to pass the bill by a large margin.

E. Berry said that previous progress had been made on this issue by defining workforce housing as that which is affordable to firefighters, police officers, and teachers who are in need of housing. He said that this messaging could be updated to include the need for more housing for front line workers, such as home health aides and nurses in hospitals and long-term care facilities.

B. Frost said that he will work with M. Leahy on putting together a statement about the value of conservation and housing. B. Frost asked for committee members to submit Commission recommendations to Jenny Horgan via e-mail and CC him.

Next week the Commission will hear a presentation by Elissa Margolin (homelessness), B. Frost (housing resources), and Elliott Berry (evictions). In two weeks B. Frost will try to set up a developer panel.

E. Berry asked if NHMA can present in three weeks regarding providing any suggestion on how to break through on this issue, and get more housing units approved at the local level.

On a motion by Rep. Panasiti, seconded by E. Berry, the Commission unanimously voted to adjourn at 9:50 AM.

**Commission to Study Barriers to Increased Land Development in New Hampshire  
Chapter 300, Laws of 2019 (SB 43)  
Minutes of September 22, 2020**

**Zoom Meeting with no physical location, as authorized by  
Executive Order 2020-04 and Emergency Order 12**

**Members present:** Senator Martha Fuller Clark (Chair), Senator Jon Morgan, Representative Reed Panasiti, Matt Leahy (SPNHF), Chris Way (NHBEA), Sylvia von Aulock (SNHPC), Shanna Saunders (NHPA), Chris Nadeau (ACEC), Noah Hodgetts (OSI), Keith Thibault (HANH), Elliott Berry (NHLA), Andrew Hadik (NHMA), Ben Frost (NHHFA).

Meet every week until November. In two weeks, a presentation by Elissa Margolin (homelessness), Ben Frost (housing resources), Elliott Berry (evictions); possible future meeting "Communities and Consequences II" presentation by Peter Francese and Lorraine Stuart Merrill.

Chair Fuller Clark said that the coronavirus pandemic has raised some issues related to the densities at which housing is developed. E. Berry commented that there are many people who don't have much choice about where to live. B. Frost said that there had been some good preliminary analyses of the relationship between virus transmission and density, and the conclusion is that there is a much stronger relationship to overcrowding within housing units than numbers of units in a given area. He will supply that information to the Commission members.

N. Hodgetts reported on preliminary results from OSI's annual municipal survey. He said there seems to be an increasing number of citizen petitions to repeal workforce housing and cluster development provisions in zoning ordinances, especially in more suburban communities (Pelham and Henniker both repealed open space conservation; Hollis, Amherst, and Bedford repealed some or all workforce housing provisions). The final report will be published in mid-October. At the same time there's also been a steady increase in communities adopting more innovative mixed use zoning provisions.

Rep. Panasiti said that Amherst did away with densities and "fired the planning board" (switched from an appointed to elected board).

Chair Fuller Clark said she was currently reviewing a paper titled "Assessing the local impacts of land protection" that would be of interest to the Commission.

S. Saunders said that a lot of development activity that had been underway has stalled; residential development has paused a bit as developers evaluate likely future market trends. She is seeing developers exploring the idea of residential micro-units (300-600 s.f./unit). Chair Fuller Clark said that the 2020 tiny house legislation did not go forward, but House sponsors intend to re-introduce the bill in 2021.

M. Leahy suggested that it would be helpful for the Commission to explain in its final report what is meant by "higher density" housing, as there is a lot of misperception about what it means. He will work with B. Frost on a statement for the Commission on the importance of conservation for community vitality.

C. Way observed that there is a new type of tourist coming to New Hampshire as people are exploring new places to live outside of more urban settings. He said this was important for business recruitment as some business owners are increasingly attracted to more rural areas.

S. von Aulock said that packaging of communications is important; we can't entice communities to think about higher density until we show the benefits; people want to get out and walk. Issues of infrastructure – walking, biking, broadband – are important to people as they choose where to live and stay. The availability of trails is a key element of communications packaging to support initiatives for cluster housing (under another name).

Rep. Panasiti said that one of the unintended consequences of people moving into the area is that it increases the cost of construction supplies because of higher demand.

Chair Fuller Clark said that the RPCs are often involved in helping communities with their master plans; the RPCs are critically underfunded and the Commission needs to make a recommendation for funding.

N. Hodgetts said that the NHMA Fall Land Use Law Conference on 10/31 will utilize the agenda from the canceled Spring OSI Planning and Zoning Conference.

E. Berry suggested that it would be helpful to have a presentation by NHMA. Chair Fuller Clark agreed.

K. Thibeault discussed homeless shelter decompression sites; he's not sure about their ability to continue operating, especially with dire predictions of the state budget. It is critical to keep these programs funded to serve needs in our communities. The demand is high for housing; cost of land has always been a problem, but now cost of construction is very high (they've seen a 100% increase). Increased allowed density would help. The families served by workforce and affordable housing have changed dramatically; 3-bedroom apartments are no longer in great demand as household size has shrunk. People who acquire high-end housing will expect a vibrant community, but the parts that make up vibrancy (restaurants, schools, etc.) require more housing that's suited to low- and moderate income households too.

A. Hadik pointed out that he'd submitted a series of recommendations to the Commission in January. N. Hodgetts will circulate those to the Commission.

E. Berry said that the sad fact is that those communities that are pushing back against housing simply don't want the workers living there; Bedford/Hollis businesses will continue to be served by people living Manchester/Nashua; the rhetoric of the so-called "attack on suburbs" is only accelerating what we're talking about here.

B. Frost discussed an event that New Hampshire Housing is hosting on 10/15 featuring the work of Urban3's Joe Minicozzi. This will look at the land value per acre of different types of land uses in 15 different communities statewide. Frost will circulate the registration information to the Commission.

C. Way mentioned the "Radically Rural" event to be held on 9/24.

Chair Fuller Clark commented that broadband expansion from CARES Act funding is not just about working from home, but remote education and telehealth. S. von Aulock suggested inviting Carol Miller to do a presentation on broadband expansion.

S. von Aulock said she had previously prepared a package regarding the roles and duties of RPCs. The November RPC meeting will be devoted to how to do streamlined master plan on a shoestring budget; they will need additional resources as communities not updating master plans because it's not a priority in tight budgets.

Chair Fuller Clark asked what would be a reasonable budget request for the RPCs?

The Commission reviewed its statutory duties; still unaddressed is minimum standards of residential development density, considering availability of water and sewer infrastructure; the Commission needs to file final report by 11/1/2020. Housing and Conservation Planning Program legislation is one possibility.

S. von Aulock said it would be helpful to have an outline for the report. Chair Fuller Clark said that much of the report can take the form of recommendations, and the minutes of the Commission's meetings can be appended as supporting documentation.

N. Hodgetts said that the issues remaining are: minimum development standards; workforce housing enforcement, and an assessment of the market. E. Berry said that we can't assess the current housing market because of the unknown long-term impact of the coronavirus pandemic. To do so would be premature; minimum development density standards is very difficult to get to; he'd be interested in hearing from developers. Chair Fuller Clark agreed that report should indicate that it's too soon to know long-term impact, but it should be addressed.

E. Berry asked whether it was possible to ask for an extension to the deadline? Chair Fuller Clark was considering that as a possibility.

Senate Deputy Chief of Staff Alan Raff said that other commissions are recommending that legislation be refiled for them to continue to work.

Rep. Panasiti asked whether it would be possible for the Governor to issue an emergency order to extend the commission? A. Raff said that others are also thinking about that; Chair Fuller Clark will ask GOFERR; Rep. Panasiti will call the Governor's office on this.

N. Hodgetts said that responsibility for the Innovative Land Use Guidebook is being moved from DES to OSI. The RPCs are discussing how to update it but funding is an issue, especially for housing and economic development.

The meeting adjourned at 10:40 AM.

**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of March 6, 2020**  
**Room 201, Legislative Office Building**

**Members present:** Senator Martha Fuller Clark (Chair), Senator Jon Morgan, Representative Tom Dolan, Noah Hodgetts (OSI), Elliott Berry (NHLA), Matt Leahy (SPNHF), Andrew Hadik (NHMA), Ben Frost (NHHFA), Heather Shank (NH Planners Association), Rob Tardif (NHDES), Sylvia von Aulock (NHARPC), Chris Way (BEA).

Moved by M. Leahy to approve the minutes of the Commission's meeting on February 7, 2020, seconded by Rep. Dolan. Approved with C. Way and A. Hadik abstaining.

**Future meetings**

- April 3, B. Frost will organize a developer panel discussion
- May 1, C. Way will organize a presentation on the Drinking Water Trust Fund

Presentation by Zachary Swick, GIS Analyst, Southern NH Planning Commission. Analysis of landcover conversion statewide. Satellite imagery 30m x 30m. Pasture and open space developed are distinguishable.

Municipal map shows areas of conversion. 2001-16 shows about an additional 8% of land conversion relative to land that had already been converted. "Minimal" means no detectable change. Chris Way asked if there were any surprises in this analysis. Swick noted the high concentrations of new conversions of land along I-93 corridor.

Representative Dolan suggested that we use DES maps which show where arsenic concentrations are the greatest in bedrock to help guide decisions in where new water and sewer infrastructure is placed. C. Way in response to a question from Representative Dolan said he would ask Erin Holmes of DES if she could present the arsenic maps to the Commission at its May 1, 2020 meeting.

Z. Swick concluded his presentation to the Commission showing maps of housing units per acre of land, housing units per impervious acre, impervious acres per housing unit, infrastructure per housing unit, and communities with more than the average of 2.5 persons per housing unit. He noted that while Lincoln looks like it has a lot of housing units per acre, many are seasonal units or vacation homes for people skiing at Loon Mountain. Similar trends are evident in Laconia and Hampton Beach which also have high concentrations of seasonal lakefront/beachfront homes, but lower year-round occupied housing units per impervious acre.

Senator Fuller Clark asked why some towns along the Seacoast appear to have higher concentrations of impervious development per acre than other parts of the state. Z. Swick said this was because for example the Fox Run Mall in Newington contains a lot of developed impervious land, in a town with an otherwise relatively small land area. In response to a question from C. Way, Z. Swick said that Littleton lies between blue and yellow in the legend on the housing units per impervious acre map. S von Aulock said that communities that have at least some water and sewer infrastructure, roadway corridors, and job hubs need more lenient zoning requirements to allow greater density for housing. She then asked whether a GIS mapping analysis could be performed to see whether areas with water and sewer are



able to maximize use/density or whether zoning is a limiting factor. N. Hodgetts said that while DES maintains a water/sewer line GIS layer, there is no statewide zoning GIS layer, but that he would send Z. Swick the water/sewer line GIS layer to add to his maps.

E. Berry responded that the problem with trying to maximize housing density in areas that already have good water and sewer infrastructure is that places such as Manchester could end up with even more of a disproportionate share of workforce housing than they already have. S. von Aulock said we instead need to think about the need for diversity of housing in general not just workforce housing. Senator Fuller Clark asked if we want to only encourage more density in areas that are already built up and have infrastructure or do we want to create new high density areas with water/sewer, jobs, and housing. She also noted that it's not a huge surprise that most of the housing concentration in the state is around the I-93 corridor in southern/southeastern New Hampshire because it is more challenging to build higher-density standout developments in other parts of the state.

Senator Morgan said we are going to continue swimming upstream until we fix how the state funds education which is partially rooted in the myth that school children increase municipal property tax burden. Senator Fuller Clark said that Professor England's research paper on this subject shows that education costs vary by community and are not affected by the number of school children in them. Senator Fuller Clark asked what does it mean for the economic health of the state if we don't have people to fill empty jobs? She said it's not just an issue of density, but an issue of changing attitudes. Representative Dolan said that communities are on a rocket ship of growth, but that there are also 20,000 open jobs throughout the state according to C. Way. Senator Fuller Clark noted that there is also a mismatch between available jobs and worker training. Representative Dolan then noted that if folks moving to the state can't find economical places to live, they can't fill these open jobs, but that at the same time parents with school-age children are the very people we need more of to grow the state's workforce and fill the open jobs, and not seniors. Senator Morgan noted the scary irony that New Hampshire has the second oldest population of any state in the country, but that the industry with the most job openings is the healthcare field.

C. Way in response to a question from Senator Fuller-Clark noted that BEA is planning a conference for later this year focused on talent attraction to the state, but noted that there is also a need for adequate infrastructure, housing that is proximate to workplaces and that we need to recruit companies where they want to locate in the state not where we want them to locate (i.e. after the Town of Northumberland installed water and sewer lines in Groveton, the Wausau Paper Mill after sitting vacant for years was redeveloped into a hydrogen facility, and after the Town of Jaffrey installed water and sewer, Millipore expanded its facility in the town).

Senator Fuller Clark asked who makes the decision about where water and sewer infrastructure goes. C. Way in response said that the grant application for the Drinking Water and Ground Water Trust Fund contains a question about economic impact. Representative Dolan asked how confident are we that high school vocational technical programs are tied to open jobs. Senator Fuller Clark said she understands that community and technical colleges are creating new partnerships with employers. Representative Dolan suggested that the Commission recommend that schools expand campuses that are close to new employment centers, ideally across the street from them. Senator Fuller Clark added that employees need fundamental skills before being trained.

E. Berry noted that with family size decreasing, there is a greater need for school enrollment data to see how smaller family sizes are affecting school enrollment trends. Senator Fuller Clark said that as a result

of declining school enrollment, schools in Newfields and Berlin have shuttered. N. Hodgetts said that we first need to permit and build more housing for families looking to move to New Hampshire if we want to reverse the state's shrinking school enrollment trend and prevent more schools from shuttering. Senator Morgan agreed, but also said that we first need to fix how the state funds public education.

H. Shank said that the Merrimack Valley School District in the Penacook section of Concord has also experienced declining school enrollment in recent years. Representative Dolan noted that the House of Representatives passed HB 1629 the prior day, which will require that any incentives for age-restricted housing also be provided for workforce housing. H. Shank suggested that it would be helpful to map water & sewer lines that have additional capacity vs. areas that could support water & sewer in the future. Representative Dolan suggested tying arsenic remediation funding to where water & sewer infrastructure is located.

Senator Fuller Clark said that we should be talking about middle income and low-income housing instead of affordable housing. E. Berry said that low income and middle-income housing are problematic terms, and that we should be instead using the term "workforce housing." N. Hodgetts agreed noting that this term is already defined in statute. S. von Aulock noted that Plaistow's historic water contamination issue will be solved by the Southern New Hampshire Regional Water Interconnection Project, a new water line being built this year from the Manchester Water Works through several towns in Southern New Hampshire.

S. von Aulock suggested looking at places which might not be attractive to companies for locating jobs, but could attract more housing and mapping out corridors where housing and jobs are located close together in the form of an opportunity map where other infrastructure including schools, water infrastructure could also be noted. She said that the corridor between Manchester and Plaistow that is getting new water infrastructure needs to be thinking about the type of zoning it will need five years out to support additional housing density and job growth. E. Berry said that in the I-93 corridor, the obvious place for increased development is Windham, but they have historically been against becoming the center of regional development. S. von Aulock agreed and said Windham's reluctance was due to zoning and high land costs, but that it could still become a jobs center.

E. Berry said that the Governor's housing proposals requires making the linkage between opportunities and obligations. C. Way in response to a question from A. Hadik said that the Drinking Water and Groundwater Trust Fund (DWGTF) administered by DES is funding the Southern New Hampshire Regional Water Interconnection Project. C. Way in response to a question from N. Hodgetts said that we can ask Erin Holmes about adding a question about zoning for workforce housing to grant applications for DWTF funds when she presents to the Commission in May. S. von Aulock asked if a community doesn't have money, but wants density could it get funding to expand water and sewer infrastructure in exchange for changing its zoning and permitting more workforce housing. Rep. Dolan said that this was the aim of the Housing Champions certification program contained in HB 1632, which would be administered by the Office of Strategic Initiatives. He suggested identifying 10 pilot communities who achieve Housing Champions certification status, provide them infrastructure funding to address their issues, and if successful this would likely spur the state's other 224 communities to sign-up for the program in subsequent years.

H. Shank said that we shouldn't only be focusing on the southeastern portion of the state, but also need to be thinking of housing as an economic development tool for the state as a whole. She said the Commission should consider what type of housing is feasible in less dense parts of the state such as the

*Commission to Study Barriers to Increased Land Development in New Hampshire  
Minutes, March 6, 2020*

North County and what types of jobs are needed most and this will dictate where new housing should be located. She also suggested the creation of an education campaign around what types of housing (i.e. duplexes and triplexes vs. multifamily housing) different levels of infrastructure will support. N. Hodgetts noted that the Joint Housing Resources Council which the Governor will be creating by Executive Order in the coming months will address this.

R. Tardiff passed out updated handouts from his February 7, 2020 presentation about septic approvals.

The meeting adjourned at 10:50 AM.

**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of February 7, 2020**  
**Room 203, Legislative Office Building**

**Members present:** Senator Martha Fuller Clark (Chair), Representative Jane Beaulieu, Rob Tardif (NHDES), Noah Hodgetts (OSI), Chris Nadeau (ACEC), Ben Frost (NHHFA), Sylvia von Aulock and Jen Czysz (NHARPC), Matt Leahy (SPNHF).

Rob Tardif, New Hampshire Department of Environmental Services, made a presentation on "Subsurface Systems Bureau Lot Sizing Requirement." He provided an Overview of DES structure and the Subsurface Systems Bureau; approvals for construction; plan review and permit, approval, and completion.

Subdivisions – every lot is inspected prior to construction. Test pit locations are verified. Representative Beaulieu asked about staffing. R. Tardif said there has been one inspector position open for two years; it requires a PE; those in private sector engineering firms would likely take a significant pay cut to take such a job. There were about 7,000 septic system approvals in 2019. The mild winter has meant constant activity of staff. Subdivision activity has slowed a bit. B. Frost asked what the time period was during which activity has slowed. R. Tardif said that there are electronic records since February 2015 – he will produce those data.

Regional offices are slowly being closed – they had been needed for physical storage of records, but everything is electronic now. Inspectors get immediate notices of inspection requests and can turn around an inspection in as little as 30 minutes (if they happen to be in the vicinity of the site to be inspected). If not built, approvals expire in four years. Therefore, all previous paper approvals have either been built or have expired, as everything is now electronic.

Subdivisions require stamps from both licensed surveyors and septic designer. Homeowners can design their own systems and get DES review and inspection. More owners are doing this than before. Senator Fuller Clark asked if other states allow this. R. Tardif will check. B. Frost asked if because DES is involved in permitting design and installation, once it's done with DES review, is it a licensed system needing no further action at time of sale. R. Tardif said that is correct.

Representative Beaulieu asked about municipal inspections. R. Tardif said that some municipalities require bed-bottom inspections, but those are done locally, not by DES. DES sees the tank, piping, d-box, and top of field (elevation, separation from SHWT); DES is comfortable that because installers are submitting on their license, then things are being done to standard. Licensing revocation has been done and is a serious issue.

Representative Beaulieu asked how long systems last. R. Tardif said they should last 20-25 years, but it depends on how they're used. Impacts of pharmaceuticals that pass-through people, especially chemotherapy for cancer have a negative impact on beneficial system bacteria; 2/3 of housing units in state are on septic (one estimate is 85% but that seems high).

Chair Fuller Clark asked about education on how to deal with pharmaceuticals. R. Tardif said that accompanying every approval is the pamphlet "You and Your Septic System."

All subdivisions without public sewer require DES approval, including condominium conversion. Exceptions – lots greater than 5 acres in size. With all approvals, they look at soils, slopes, and well radius. The basic design standards for residence is 600 gpd minimum; 150 gpd/bedroom. Minimum design size is for a 2-bedroom unit. An accessory dwelling unit with one bedroom would require capacity of 225 gpd. There is some excess capacity built into designs.

S. von Aulock asked whether similar formulae are used elsewhere. R. Tardif said that there was a 2002 analysis. The conclusion was that our lots should be smaller and that DES is too conservative, and requires larger lots than is necessary.

Conservation subdivisions – total combined area including conservation area must meet standards; well radii may cross lot lines but would require easements; well radii may also overlap; conservation easements must be held by a third party; municipalities don't like to hold them because they don't get as much tax revenue – third party holding makes it more taxable.

S. von Aulock asked if community systems fail faster. R. Tardiff said that he hasn't seen that; don't really get into why systems fail; in community systems, residents are depending on each other to do the right things.

In response to a question from Senator Fuller Clark, R. Tardif stated that in 2004 the DES Subsurface Bureau issued 12,000 septic system approvals, but by 2009 the bureau was only issuing 5,000 construction approvals and the number has been slowly declining since, with the exception of 2019 in which 7,000 approvals were issued.

Senator Fuller Clark asked if the current septic system permitting/approval process is effective and if any requirements are a barrier to increased density. R. Tardif said that the process is very effective and the requirements are not a barrier to increased density. Senator Fuller Clark noted that applying a consistent scientific standard is important.

### **Other Business**

Rep. Reed Panasiti, from Amherst, representing Hillsborough County District 22 introduced himself, Amherst Town Administrator Dean Shankle, Amherst Planning Board Chair Michael Del Orfano, and Amherst citizen Tim Kachner. Rep. Panasiti noted that Amherst is experiencing housing growing pains related to density bonuses. He noted that he reviewed the Commission's minutes and saw that there was discussion about the importance of education for local boards and other matters which hit on the key issues in Amherst. Rep. Panasiti noted that in Amherst density bonuses given for Planned Residential Development and elderly housing have come at the expense of new workforce housing.

M. Del Orfano stated that he has been on the Amherst Planning Board for 20+ years and that the planning board collectively has 100+ years of experience. He noted that fellow Planning Board member also submitted a letter to the Commission on this issue. The Amherst Planning Board established elderly housing regulations in 1975, Planned Residential Development density bonuses, and an inclusionary housing ordinance in 1989 which allowed up to 4 units per acre (400% times the allowed density for single family homes) for workforce housing units that were 1,300 sq. ft. or smaller. However, the original inclusionary housing ordinance lacked affordability covenants required the affordable units to remain affordable upon sale. After the 2010 state workforce housing law was enacted, Amherst amended its affordable housing ordinance to be consistent with the new state law. As a result of developers exploiting the maximum density provisions of the affordable housing ordinance, the density bonus for

affordable housing was reduced by 50% and the ordinance was amended to put an emphasis on cluster developments and the workforce housing law's fair share requirement.

M. Del Orfano noted that in the 2010 master plan, Amherst residents supported housing for seniors to downsize into. As a result, between 2015 and 2020 the Planning Board encouraged housing which would appeal to seniors including single-level houses and developable open space. In 2015 Amherst enacted an Integrated Innovative Housing Ordinance (IIHO) which provided additional density bonuses for different community benefits such as construction of public water infrastructure. In 2019, 3 large 100+ acre developments came forward under the IIHO and the Planning Board struggle with balancing protection of land owner rights and abutter concerns about traffic, water quality, and septic. The Planning Board has tried to concentrate development away from the street with 100 foot setbacks to minimize visibility, while making sure that the roads are serviceable by DPW and the fire departments. The board also worked to maximize these developments connectivity with other recreational trails in the area. The Planning Board in reviewing these applications heard from many neighbors of these proposed developments that believed these developments were bad and didn't want to see any change and also weaponized social-media, making false abusive allegations against Planning Board members. As a result, the planning board is requesting the Density Commission recommend protections against future social media. M. Del Orfano also noted that Amherst Center benefits from higher concentration of houses and mixed-uses and that the master plan recommends the creation of more walkable neighborhoods.

As a result of the discontent about these new developments, a citizen group has brought forward two signature petitions for March Town Meeting which would repeal the IIHO and change members of the Planning Board from being appointed to elected.

S. Von Aulock noted in the past when working with communities with friction and nobody is working with the facts, she has found it helpful to hold info session open to the public outside the hearing process. M. Del Orfano noted that he tried to educate everyone on the basics of planning boards during the hearings on the petition articles, but there were too many speakers from the public to have time for this. In Amherst, it's not the planning board that is slowing things down. There have been two citizen petitions submitted to change the zoning and make it more difficult to develop housing. Planning board hearings on those petitions were packed with people who supported those petitions, which are built on fear and lack of listening.

Tim Kachmar, Amherst, speaking "to correct the record." There were two petitions, one to eliminate the IHO; the other to limit the percentage density bonus to 35%. The people of the town are trying to present other options, but the planning board rejected them.

T. Kachmar said that there are two developments are proposed within ½-mile of the Village center; traffic from these developments will pass the schools; one on a narrow, winding road; neither proposal is for workforce housing. The IHO has no limit on density; no impact fees are required. Amherst doesn't need large apartment complexes. That's the position of the citizens. They want to work with the planning board. The master plan is being re-written. We don't want to stop development; we want to see new people in town. Schools are in need of capital investment. New students would stress the system, and there are no impact fees. S. von Aulock said that she had frequently dealt with similar situations fueled by myths about the impact of development. Education and communication are important.

The meeting adjourned at 10:50 AM.

Commission to Study Barriers to Increased Land Development in New Hampshire  
Chapter 300, Laws of 2019 (SB 43)  
Minutes of January 10, 2020  
Room 206, Legislative Office Building

Members present: Senator Martha Fuller Clark (Chair), Representative Jane Beaulieu, Representative Tom Dolan, Rob Tardif (NHDES), Jeff Keeler (NHAR), Mike Klass (OSI), Chris Nadeau (ACEC), Andrew Hadik (NHMA), Ben Frost (NHHFA), Sylvia von Aulock (NHARPC), Matt Leahy (SPNHF), Chris Way (NHBEA).

Future meetings: the Commission agreed to meet monthly on the first Friday. Future topics:

- February: subdivisions and septic systems – Rob Tardif
- March: drinking water quality – Chris Way
- Professor Richard England regarding NHAR report sometime in Spring
- Developer panel in April/May

Other considerations:

RPCs – What level of state funding to the regional planning commissions is needed to provide certain levels of services;

Opportunity Zones – Chris Way said that this new federal program provides the possibility of deferment on capital gains taxes in 25% of the State's low-income census tracts; they're not producing as many projects as initially hoped.

NHHFA's Municipal Technical Assistance Program (MTAG)

Andrew Hadik – there's a strong need for education of local boards; members are volunteers and don't have a lot of time to absorb the information that's important to their decisions. Need to make it easy to access; local cable channels are in need of good content; Chester's capital improvements program (CIP) got support through a program that was made available on local cable.

Rep. Dolan – traveling road shows for board education would help; face-to-face interaction is important, stimulates questions that might not otherwise be asked; CIPs are a good example of how communities can plan for infrastructure development; good financial planning for running of municipalities (including schools).

Andrew Hadik – the establishment of a CIP allows for the collection of impact fees, which are targeted to the local capital impact associated with a development. Rep. Dolan urged caution regarding impact fees, given Londonderry's experience. Ben Frost said that there are constitutional tests embedded in the impact fee statute that limits how they can be used; impact fees are only appropriate where they're proportional to the impact and there's a direct connection between the fee and a development's impact on the municipality. Chair Fuller Clark asked if impact fees can be used for affordable housing development? Ben Frost said that such a use is not enabled under NH law, but the Boston Redevelopment Authority is allowed to collect "linkage fees" (a type of impact fee) from commercial

development to fund housing development. Jeff Keeler said that impact fees serve to increase the overall cost of development.

Andrew Hadik said that a “fair share” provision in an impact fee ordinance can give the planning board the authority to waive impact fees; that is a broader recommendation that he has made previously in Chester.

Sylvia von Aulock said that school impact fee waivers could also be available for developments that don’t have kids associated with them; smaller communities are burdened with how to pay for the costs of improvements. MTAG is a good resource for communities to review their zoning ordinances.

Chair Fuller Clark commented on the impact of hotels on Portsmouth’s provision of services; they do nothing to advance solutions to housing; if fees could be levied, that would help. Jeff Keeler said that typically, local people would choose a hotel over new housing because of the increased tax revenue. Chair Fuller Clark said that resistance to more housing is changing. There needs to be more flexibility in statutory tools to support more housing at all levels; inclusionary zoning bonuses offered for don’t provide enough affordable housing. There is a need to leverage the commercial development to create more housing. Jeff Keeler said that sounds like a master planning issue, identifying appropriate future land uses.

Ben Frost recommended that the Innovative Land Use Guidebook needs to be refreshed, and that would require funding. Chair Fuller Clark asked what the cost would be. He replied that he was unsure, but it would be something in the order of \$100,000, and would need to include a graphic designer.

Matt Leahy said that an education campaign for local board members is important. Ben Frost said that the RPCs do get limited funds through OSI’s targeted block grant (\$11,111/year each to each RPC). Sylvia von Aulock will talk with other directors about what the appropriate allocation would be along with specific tasks and will report to the Commission in March.

Rep. Beaulieu commented on the planning and housing bills currently in Municipal and County Government (HB 1629 and HB 1632). She asked if amendments could be made to the bills to account for the costs of education. Chair Fuller Clark suggested that as a commission recommendation. Mike Klass said that education is a two-way street; local champions are a key to success. There had previously been a “cost of development” website; he will check to see what happened to it.

He said that the Municipal and Regional Technical Assistance Program at OSI provides information to anyone who calls or emails with questions related to local planning, zoning, and development. OSI annually updates handbooks for planning boards and ZBAs, which are available free electronically. A road show is a good idea, but staff resources are limited. Links to the local board guidebooks will be provided to all members. He said there are other publications as well. There is lots of turnover on boards, so they’re working on an introductory handbook for new board members; they’re also working on a handbook for local land use administrators.

Susan Cragin – Merrimack County Registrar of Deeds, but speaking as a private individual. She voiced Objections to high density housing because it causes inter-neighbor conflict. She is anticipating the impact of “grandma pods” and tiny houses. What causes inter-neighbor conflict is hard to identify; a Concord ordinance before the City Council next Monday would allow chickens. She said her neighbors



are fighting over a chicken coop next to the property line. Often the best location for high density housing is where it already exists.

Andrew Hadik said the key is to prohibit roosters; in Chester, free range chickens are mainly the problem, as well as those who don't clean up under their coops. UNH Best Management Practices as a good guide.

Chair Fuller Clark asked whether OSI works with NHMA. Mike Klass said that NHMA and RPCs are their primary collaborators; e.g., the past fall conference was done in partnership with NHMA.

Natch Grayes (NHMA) – it seems that for the foreseeable future a conference partnership will continue; OSI spring conference, NHMA fall conference. For them, the critical issue is that there are only 4 attorneys on staff and it's hard to cover all municipalities; they support the idea of providing more opportunities for training of local board members; there needs to be a commitment by the State to provide more resources to OSI or others. OSI conference will be on 5/30.

Mike Klass said that the 5/30 conference will be at the Grappone Center in Concord which has a capacity 400 – that accounts for 350 attendees plus staff and speakers; Chair Fuller Clark asked which communities send representatives to the conference. Mike Klass said he was unsure but will provide that information. Chair Fuller Clark asked if it was possible to encourage communities to attend who haven't been attending? It is important to get these board members to do education because of the importance of the decisions they're making. We need to incentivize their participation.

Natch Grayes said there also needs to be buy-in. Education attendance can be done, but the attendee has to buy-in for the education to be of value.

Sylvia von Aulock said that OSI and NHMA have done an amazing job over the years with those full-day events. She agreed with Andrew Hadik that we need other venues to deliver the educational messages, particularly shorter sessions, e.g., 15-minute sessions for people who have only a little time. Record the experts on all these topics and provide enough that it can be seen on a smart phone.

Chris Nadeau asked if the commission was restricted to considering residential development. Chair Fuller Clark said it was not. He recommended other topics, such as renewable energy development; brownfields development. Chair Fuller Clark will contact Clean Energy NH about making a presentation.

The meeting adjourned at 10:30 AM.

**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of December 17, 2019**  
**Room 206, Legislative Office Building**

**Members present:** Senator Martha Fuller Clark (Chair), Noah Hodgetts (OSI), Matt Leahy (SPNHF), Chris Way (NHBEA), Jennifer Czysz (SRPC), Andrew Hadik (NHMA), Rob Tardiff (NHDES), Ben Frost (NHHFA)

**Presentation by Ben Frost, New Hampshire Housing, "Housing Market Overview"**

The backdrop to the state's housing economy is that the unemployment rate is very low (high demand for housing), but first-time borrowers are faced with a very high student debt load. Purchase prices continue to rise (\$285K median statewide in October 2019, an increase of 5.5% since the same month a year preceding), but sales are slowing because of a dramatically constrained inventory.

Building permits are significantly down for single-family housing since the Great Recession.

On the rental side, prices continue up in a seemingly inexorable trend. Rental vacancy rates are below 1.0% statewide, whereas a balanced market would call for a rate of around 5%.

Overall, while there is a strong demand for housing for purchase, the constrained inventory is causing the numbers of sales to level off. Renter incomes have not kept pace with increases in rental costs, resulting in a stressed rental market. The lack of available housing is having an impact on the state's available labor force.

NHHFA has analyzed different construction methods, and found that they are roughly equivalent in cost – that is, using stick-built, panelized, or modular techniques, it is possible to build a home under various scenarios for about \$250,000. The real issue is developer/builder profit, and how much they're willing to forego to build a smaller, less expensive house.

Despite conventional wisdom, Coos County is the least affordable place in New Hampshire – based on the incomes of the people who live there.

NHHFA has hired Russ Thibeault to develop a new statewide housing needs assessment. This work will be presented at the NHHFA Homeownership Conference in March.

**Future issues for the committee:**

Technologies around septic systems – especially important for more rural communities. Rob Tardiff will arrange a DES presentation, relating it to municipal zoning.

Drinking water quality. Chris Way.

Developer panel. Ben Frost

The meeting adjourned at 10:30 AM.

**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of December 10, 2019**  
**Room 206, Legislative Office Building**

**Members present:** Senator Martha Fuller Clark (Chair), Senator Jon Morgan, Representative Tom Dolan, Representative Jane Beaulieu, Noah Hodgetts (OSI), Rob Tardiff (NHDES), Elliott Berry (NHLA), Keith Thibeault (SWCS), Matt Leahy (SPNHF), Chris Way (NHBEA), Chris Nadeau (ACEC), Sylvia von Aulock (NHARPC), Ben Frost (NHHFA).

**Minutes of 11/19/19.** Motion to approve by C. Way, seconded by M. Leahy. Vote unanimous in favor.

**Presentation by Phil Sletten**, NH Fiscal Policy Institute – “Demographics, Age Groups, and Incomes in New Hampshire.”

Population age cohorts by municipality: college towns tend to be younger, as the American Community Survey (ACS) categorizes students as residents of those communities because they live there for a majority of the year; in northern NH communities, people are aging in place and the median age is much older than the rest of the state.

County median populations all increased; C. Way asked if there was conflicting data, noting that there was immigration to NH. P. Sletten said that immigration numbers are relatively small; historically NH has been better at attracting people mid-career and families with children, but now there are fewer children per family.

Age cohorts by race or ethnicity: in all groups except 65 and older, the proportion of non-Hispanic White population has decreased; all other race and ethnic groups (that is, all other than non-Hispanic Whites) have increase regardless of age cohort.

There are housing affordability challenges for people who might have otherwise wanted to move to NH, which has slowed immigration.

Net migration vs. net natural increase: of the counties with increasing population, only Hillsborough County's growth is attributable to net natural increase; all others are based mainly on immigration.

Poverty rates by county: state overall is 7.6% (about 100,000 population); child poverty rate overall is 10.6% (about 27,000 children). Rockingham County is the only county that is statistically significantly different from other counties with a 5% poverty rate. Senator Morgan asked about the federal poverty rate. P. Sletten said it was higher, but doesn't have the precise figure. He said that NH no longer has the lowest poverty rate nationally. E. Berry asked if poverty rates could be broken down by municipality. P. Sletten said that ACS 5-year averages are available, but they're not very reliable because of the small sample size and high margin of error. Other data may be better to get to municipal gradation that is masked by county level data. Chair Fuller Clark asked if poverty could be broken down by gender. P. Sletten said that could be done, and that he would provide those data.

N. Hodgetts said that the federal poverty rate is 11.8% based on Current Population Survey; P. Sletten said this was based on a different methodology than ACS, but is good for national figures.

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M. Leahy asked a comparison with earlier periods. P. Sletten said that the child poverty rate peaked during and following the Great Recession; elderly poverty generally declining over time.

Poverty rate by race: for Hispanics about twice the rate overall; foreign-born persons also have a somewhat higher poverty rate.

Poverty rate by family type: single female head with children is 33% (overall 5% for families); non-family households 17%. Single male household poverty rates are possible to get to, but are not formally reported by ACS. ACS data are not available for single male households with children

Poverty levels: individual, about \$13,000; family of 3, about \$20,000; family of 2, about \$15,000-16,000.

Household income: a little more than 20% of households earn below \$35,000. This does not include homeless, as ACS only includes households with addresses. About 33% of households make less than \$50,000. Representative Dolan asked if there a source for incomes for the homeless population? P. Sletten said that is not readily available. Representative Dolan asked whether it would make sense to show the homeless population as having no income. K. Thibeault said that the majority of the homeless they serve have income and are employed. E. Berry said that the group of renters who pay over 50% of their income on rent are at risk of homelessness.

Median household income adjusted for inflation shows that households recovered from Great Recession income losses only in about 2015.

Income by municipality by municipal size: this reveals variations within counties, with implications for anti-poverty programs (e.g., Medicaid and Food Stamps). For example, Rochester's rate of Food Stamp enrollment is about twice that of neighboring Dover.

Cost of living indices: MIT Living Wage Calculator (counties and statewide); Economic Policy Institute (EPI) Budget Calculator (counties only). P. Sletten said that comparison among counties is possible; EPI also does metro area calculations.

Rental cost burdens: if a household pays more than 30% of its income on housing costs, it is considered to be rent burdened; in NH, of renter households making less than \$35,000, 50% pay more than 50% of their income on rent; 75% of NH renter households pay more than 30% of their income on rent.

N. Hodgetts noted the disparity of median incomes – \$41,000 for renters and \$91,000 for homeowners; housing cost burdened renters cannot save to purchase a home.

N. Hodgetts also noted that OSI is preparing building permit data, which will show that in 2018 only 4,200 new housing units were built in New Hampshire.

Representative Dolan said that we need more incentives to build owner-occupied workforce housing, such as tax breaks and better land use regulations. Representative Beaulieu said that the Governor's Housing Task Force has made such recommendations.

N. Hodgetts said that affordability can be better achieved with the economies of scale that are enabled at higher densities of development. Representative Dolan said that many communities unduly restrict the number of units allowed in a single structure.

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E. Berry said that as long as density is a local option, it's harder to do; the idea of mandatory inclusionary zoning is interesting, but he questioned whether municipalities are motivated to do this.

Representative Dolan said that in funding programs there should be preferential scoring for communities that meet certain goals. N. Hodgetts said that one of the recommendations of the Governor's Housing Task Force is the establishment of the "Housing Champion" certification, which would give municipalities access to infrastructure bond financing administered by the Business Finance Authority.

Food insecurity: this is somewhat lower than during Great Recession. Chair Fuller Clark asked about the impact of proposed SNAP reductions. P. Sletten said there are three proposed changes: the work requirement rule wouldn't impact NH; the change to the utilities calculation would reduce the benefit for about 1/3 of SNAP recipients in NH; the categorical eligibility change would disenroll about 3,500 recipients in NH.

Regarding those moving into New Hampshire, Representative Judith Spang asked whether we can distinguish between retirees and those moving for other reasons. She asked whether people who are moving into New Hampshire are taking up age-restricted low-income housing; B. Frost replied that in most cases, people who take occupancy in low-income residential developments are from the area in which the buildings are located; most low-income people don't have the financial resources to relocate over considerable distances.

School enrollment: enrollment declines impact the amounts that districts receive for education adequacy grants, which are made on a per pupil basis, with some adjustments. S. von Aulock said she would like to see the numbers from one community to another.

Chair Fuller Clark said that she'd recently met with the Newfields Selectboard; they talked about the high cost of housing in town, which made it difficult for families with children to afford to purchase a home; as a result, school population is declining and the community may have to close its school.

Future meetings:

- 12/17 NHHFA presentation on the housing market.

Future meetings will be 2x monthly on Fridays

The meeting adjourned at 10:52 AM.

Commission to Study Barriers to Increased Land Development in New Hampshire  
Chapter 300, Laws of 2019 (SB 43)  
Minutes of November 19, 2019  
Room 203, Legislative Office Building

Members present: Senator Martha Fuller Clark (Chair), Senator Jon Morgan, Representative Tom Dolan, Representative Jane Beaulieu, Stephanie Verdile (OSI), Noah Hodgetts (OSI), Rob Tardiff (NHDES), Elliott Berry (NHLA), Sylvia von Aulock (SNHPC), Jeff Keeler (NHAR), Keith Thibeault (SWCS), Matt Leahy (SPNHF), Chris Way (NHBEA), Ben Frost (NHHFA).

Minutes of November 12, 2019: Chair Fuller Clark noted that a word at the bottom of page 3 should be changed from "solution" to "problem." Motion by J. Keeler, seconded by M. Leahy to approve the minutes as amended. Vote unanimous in favor, with C. Way, S. von Aulock, and S. Verdile abstaining.

Minutes of October 29, 2019: Motion by M. Leahy, seconded by J. Keeler to approve the minutes as presented. Vote unanimous in favor.

Commission Interim report: date of first commission meeting changed to 9/17/19; new legislation would be introduced in 2020 for reestablishment of the Housing and Conservation Planning Program, to be housed at OSI with rulemaking in advance of the next budget and an appropriation recommended for inclusion in next biennial budget. C. Way asked if this had been part of the Governor's Housing Task Force Report. B. Frost said that it was not part of that report because the Task Force recognized that such a recommendation was more appropriate coming from this commission. Motion by Senator Morgan to approve the interim report as amended, seconded by E. Berry. Unanimous vote in favor.

Future meetings - possible topics

- OSI programs
- Professor Richard England
- Greg Carson – HUD presentation; federal level, manufactured housing
- Tiny house legislation
- Maine's special area management plan
- NH Wildlife Management Plan
- NHHFA housing market/Housing Action NH
- Peter Francese/Jay Childs: Communities and Consequences sequel
- NH Preservation Alliance (adaptive reuse, RSA 79-E), LCHIP; Maine tax incentives

In reviewing the Commission's statutory charge, Chair Fuller Clark asked whether we were identifying barriers to increased development, and noted that we need to start a list. Commission members were asked to go through past presentations to help identify a list of such barriers.

Chair Fuller Clark said that one clear barrier has emerged: there is not enough expert advice on land use regulations to assist local communities on what to do. Communities don't know about the existing resources and regional planning commissions do not have sufficient resources to do proper outreach. A question has been raised whether land conservation is a barrier to increased development. The

presentation at the preceding meeting by the Highstead Foundation indicates there is data to the contrary.

J. Keeler said that if land is only put into conservation while not allowing increased density elsewhere, then development will not occur. Chair Fuller Clark asked what position do we take regarding 2-acre minimum lot size zoning, given that it is intended to restrict development. It is true that large tracts of land need to be preserved for agriculture. J. Keeler noted the myth that associates residential development with a great number of additional children in schools and referred to Professor England's report on this matter. E. Berry said it was the same people who cite school impacts who are the ones who support 2-acre zoning, which introduces more children per housing unit. There needs to be an analysis of the regulatory linkage between housing and conservation. In order for communities to get assistance for conservation, they should be prepared to allow denser development in some areas.

M. Leahy noted that there needs to be some good examples of more densely situated housing developments on larger tracts of land where land is also conserved.

J. Keeler noted that cluster subdivisions may be marginally better than tract subdivisions. But transfer of development rights could be of real benefit; TDR increases density while preserving open space.

S. von Aulock said that cluster subdivisions were not intended to increase overall density, but to conserve land. There needs to be a focus on those types of development that actually increase density. She asked how can zoning be made appealing to developers to make it work financially. She suggested that it would be good to hear from developer Eric Chinberg: How was he able to do affordable housing in rural areas?

B. Frost suggested a presentation by a panel of developers, such as Eric Chinberg, Chris Davies, and Kevin LaCasse.

E. Berry asked whether zoning forces sprawl, and suggested that there needs to be a study done of how much of our land is 2-acre + zoning.

S. von Aulock said that conservation subdivisions are all over the place; one of the barriers we're seeing is that communities don't know what zoning can do for them; regional planning commissions have the pulse of their communities, but are financially limited.

S. von Aulock said that another barrier is the public perception of affordable housing. Chair Fuller Clark said that using the term "workforce housing" hasn't really changed the dialog. She asked how unaffordable is housing really; what is the availability of housing under \$300K? She said that if you don't have the supply, what good is it to educate the public? Need to increase supply. We haven't gotten information on the cost of housing development.

N. Hodgetts arrived 9:50.

J. Keeler said that most communities aren't going to welcome density voluntarily. Senator Morgan said that was true, unless the housing is for people aged 55+.

E. Berry said that his clients are poor people, who have the most searing needs. He said that we can change the name, but perceptions have to be changed. That requires more than education.

Chair Fuller Clark observed that manufactured housing and accessory dwelling units are both mandated by the state to be allowed in certain circumstances by municipalities. The Legislature will take up a bill regarding tiny houses in the next session. E. Berry said that the law requires municipalities to allow manufactured housing in more than 50% of residentially zoned land.

S. von Aulock asked who would be eligible to live in what is considered affordable housing, and that it probably would not be police and fire department workers. Chair Fuller Clark said that we've shifted to a service economy; restaurant workers and others are the ones who can't live in the communities where they work. S. von Aulock said that we need resources for planners to promote diversity and age-friendly housing; facts need to be available to support those efforts.

K. Thibeault said that the message that calls for a balanced supply of housing is something that resonates well in communities, as opposed to affordable housing or workforce housing. He said that it's more helpful to examine the specific employers who are impacted by housing issues than the list of types of employees.

Chair Fuller Clark asked whether it would be helpful to inquire of the restaurant and lodging association. E. Berry said that the Department of Employment Security has good information on job sectors and wages.

C. Way also said that there's a parallel track of how the state is attracting talent. This won't work without a housing supply where people can live.

Referring to the Commission's statutory charge, Chair Fuller Clark said that we need data on the availability of water and sewer infrastructure. R. Tardiff said there are data available from the DES Drinking Water and Groundwater Bureau. He will follow up with Rene Pelletier about this.

Representative Dolan said that the use of state grants for municipal water and sewer could be conditioned on the existence of zoning for higher densities.

N. Hodgetts asked whether funding scoring criteria could be evaluated for this. C. Way said that this is true of CDBG funding, but also federal Opportunity Zones provide potential for housing development.

J. Keeler said that while public water and sewer are important, we shouldn't overlook private community systems contained within individual developments. These may be a more appropriate alternative for more rural communities. Chair Fuller Clark asked whether we need to change regulations to make this easier to do. R. Tardiff said community systems are already allowed by DES, and referred to the DES soil-based lot-sizing requirements. Senator Morgan asked if the recent reduction in allowable PFAS/PFOA levels will play a role in affordability. R. Tardiff said that DES is working to respond to that.

S. von Aulock said that in some cases, nomenclature is an issue. For example, many communities already allow some form of mixed-use. We need to think about how to describe things (Francestown general store is not a mini-store or a village mart; it is a "village store") in ways that are relatable to the contexts in which people live. "Village" is an appealing term, and putting things into such relatable terms can help to allow for adaptive reuse of empty structures.

Representative Dolan said that language is important. Look at the science of issues – the spacing required for drinking water wells spacing; the science has gotten better at telling people when they need to be careful; PFOAs and arsenic (from farming and naturally occurring) are in the environment



everywhere. What we once thought was safe we now realize is not. There is a need for filtration or new or expanded public supplies. People will see through the choices of different words; rather, we need to focus on the science behind what has traditionally been used to limit density of development. Public water takes away the entire argument about drinking water safety concerns related to density of development.

E. Berry said that public water and sewer is key – municipalities that have them increasingly saying that they're taking all of the burden of increased population growth; it will get to a point where those communities feel resentful of other communities that don't have water and sewer.

S. von Aulock noted that one of the differences between a town (annual meeting) and a city (city council action) is the flexibility of the cities; it's difficult to amend zoning in towns. A planning board can amend site plan and subdivision regulations on its own. Perhaps that's where the regulatory flexibility needs to be. S. von Aulock said that the zoning amendment process is long, and planning boards often run out of time.

K. Thibeault said that if local allowances for accessory dwelling units had to go through every town meeting, as opposed to being a mandate, it wouldn't have happened that they are now allowed. The actual development of ADUs hasn't been met with a lot of resistance. We shouldn't shy away from that experience, as it was successful.

N. Hodgetts said that the ADU law is a good example. It provides lots of flexibility at the local level; it's a good middle ground, and not a complete usurpation of local control. OSI's municipal regulation survey reveals that 194 municipalities have adopted their own ADU law.

B. Frost said that there's a difference between the quantity and quality of ordinances. He observed that at least one town, while allowing ADUs, also imposed rent control on them without any statutory authority to do so.

J. Keeler said that the ADU law took 3 years to its passage. It was targeted to benefit a growing population of elderly who can't afford nursing homes, but lots more people can't afford housing. Mandated municipal action is necessary.

E. Berry suggested that towns should be required to provide the maximum density that DES would approve.

B. Frost reminded the members that NHHFA has some resources available to conduct studies to assist with the Commission's work. He suggested these as potential studies:

- Look at some existing tract developments and re-engineer them for maximum development based on DES standards for soil-based lot sizing;
- Assess the amount of land statewide in 2+ acre zoning

R. Tardiff noted that DES lot-sizing standards only apply in cases of on-site waste disposal. He warned that the presence of public sewer can drain an area's groundwater, because unlike onsite waste disposal systems where water is cleaned and then infiltrated back to the groundwater, public sewer removes water from a watershed by surface flow after filtration.

Future meetings and topics:

*Commission to Study Barriers to Increased Land Development in New Hampshire  
Minutes, November 19, 2019*

- 12/3 NHHFA/HANH
- 12/10 Phil Sletten

The meeting adjourned at 10:30 AM.

DRAFT

**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of November 12, 2019**  
**Room 206, Legislative Office Building**

Members Present: Senator Martha Fuller Clark (Chair), Senator Jon Morgan, Rep. Jane Beaulieu, Rene Pelletier (NHDES), Jeff Keeler (NHAR), Andrew Hadik (NHMA), Chris Nadeau (ACEC), Ben Frost (NHHFA), Noah Hodgetts (OSI), Mike Tardiff (CNHRPC), Matt Leahy (SPNHF), Heather Shank (NHPA)

Minutes of October 15, 2019: Motion by N. Hodgetts to approve as presented; seconded by J. Keeler; unanimous vote in favor.

Minutes of November 5, 2019. N. Hodgetts should be included in members present; at the bottom of page 3 after the last bullet, change word to "could." Motion by M. Leahy to approve as amended; seconded by J. Keeler; unanimous vote in favor.

Presentation by Spencer Meyer of the Highstead Foundation. Forest cover lost in New England – 5,000 acres lost per year in NH (based on LandSat comparison with historical record; assessment of low-density residential development). Sixty-three percent of conserved land is publicly protected in NH (New England 50%), but most recent additions have been privately protected (conservation easements).

Access to forests provide health benefits and result in documented avoided healthcare costs related hypertension, heart disease, diabetes (statistically significant); obesity (not statistically significant).

Chair Fuller Clark noted that a recent UNH study demonstrated that access to recreational opportunities is helpful in addressing opioid addiction.

Work conducted by "Sebago Clean Waters" demonstrate the benefit of forests as a filtration system for public water supplies (e.g., NYC). Ecosystem service valuation; \$300 - \$2,000/acre/year in the Sebago Lake watershed. The Portland Water District estimated the of cost of filtration; top 10 water users in district would pay an additional \$38MM.

The entirety of the Merrimack River Watershed contributes to public drinking water supply; but not much of the watershed is protected.

Local economic impacts: in a paper published last spring (Kate Sims, et al) showed that towns that conserve more land have a small but significant increase in employment; labor force up, unemployment rate down; new housing permits did not go down.

Increasing from 10% to 15% conserved land in a community, you should expect a 1.5% increase in employed people in a town with 20,000 employed people – a causal relationship was established. But not all employed people will be working within the community in which they reside.

Senator Morgan asked about the impact of conservation on housing affordability. S. Meyer said that was not part of this study.

Newenglandlandscapes.org provides alternative scenarios of future development in New England.

Presentation by David Patrick, The Nature Conservancy, on Development and Natural Resource Conservation. The central thesis is that development in New Hampshire will continue to occur. It's

reasonable to assume that the population will increase significantly over time. The key will be to allow continued development, while ensuring we don't: 1. Degrade critical ecosystem resources; 2. Lose critical habitat for native biodiversity; 3. Put people in harm's way; 4. Undermine the way of life in New Hampshire – that we can experience the natural world on a daily basis.

Recommended resources: Cameron Wake's work analyzing 2015 – 2020 land cover analysis of the seacoast region; SB 38 (388?) report, which includes NHDES detailed maps of critical water supply areas; New Hampshire Wildlife Action Plan (2015); critical connecting features (NH Coastal Viewer); sea level rise predictions (from UNH website)

How does development degrade ecological values? It depends on the type of development that occurs: urban, suburban, exurban. Specific aspects include proximity to resources, access to municipal infrastructure, vegetation management. What's the infrastructure we need to allow more people within the same space? The "edge effects" of development are important to understand – the impacts of a house site extends well beyond the cleared land (e.g., dogs), so building the same number of houses more densely can reduce negative impacts.

How are key decisions made, and at what scales? Volunteer board members at the local level presents a challenge for education.

Tactics to influence development:

1. Non-regulatory:
  - Make sure that towns have the information they need
  - Educate homeowners
  - Tax incentives for sustainable development practices
2. Regulatory:
  - Smaller lot sizes in cons dev
  - Wetland buffers
  - Borrow ideas from elsewhere: Maine Special Area Management Plan (SAMP)
  - Increase funding for conservation
  - Ensure developers are including objective information regarding risks of flooding and SLR for new home construction

Some of TNC's current projects include tidal culvert assessments; restoration of upstream habitat to reduce downstream flooding potential; renewable energy – allow for its development without putting it in the wrong places.

Chair Fuller Clark noted the work that has been done in Brooklyn, NY in response to Superstorm Sandy, including the construction of high berms to control flooding. D. Patrick agreed that we will need some combination of green and gray infrastructure to protect existing communities that are vulnerable to flooding associated with sea level rise.

Chair Fuller Clark observed that the focus on sea-level rise bifurcates the state and makes people elsewhere think they're not part of the solution. D. Patrick agreed that the risk of flooding is everywhere – culverts getting blown out; extremes seem to have become the new norm.

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Rep. Beaulieu said that the New Hampshire designated rivers protection program especially helps smaller communities to plan for these issues.

The meeting adjourned at 10:30 AM.

**Commission to Study Barriers to Increased Land Development in New Hampshire**  
**Chapter 300, Laws of 2019 (SB 43)**  
**Minutes of November 5, 2019**  
**Room 102, Legislative Office Building**

Members Present: Senator Martha Fuller Clark (Chair), Senator Jon Morgan, Representative Tom Dolan, Andrew Hadik (NHMA), Chris Nadeau (ACEC), Ben Frost (NHHFA), Chris Way (NHDBEA), Matt Leahy (SPNHF), Jeff Keeler (NHAR), Elliott Berry (NHLA).

Future meetings:

- 11/12 The Nature Conservancy; Spencer Mayer, Highstead Foundation
- Richard England (NH Association of Realtors study) – December

The Commission's Interim Report will include the following:

- List of presentations
- Minutes
- No specific recommendations at this time
- To be sent out for member review; adoption next week

Governor's Housing Initiative: N. Hodgetts reported that the Governor had convened an informal task force in August to address the state's housing shortage. The task force included NHDBEA Commissioner Taylor Caswell, Dean Christon and Ben Frost from NHHFA, Noah Hodgetts from OSI and other state and municipal officials.

The overarching issue is that there is a significant housing shortage, especially of workforce housing and housing for young families; the state has record low rental vacancy rates and lack of inventory of housing for sale. The task force has developed a comprehensive set of recommendations to help address this crisis.

The recommendations fall into three areas: enhance local control; improve process predictability; and accelerate investment.

These are in two legislative bills to be introduced next year, the first of which deals with local permitting process (LSR 2552).

Recommendations of that bill include:

- The establishment of a Joint Housing Resource Council, which would coordinate responses of state agencies relative to housing;
- Education for local land use board members; new board members must get training within 6 months

M. Leahy asked about the cost of training? N. Hodgetts said OSI would bear the cost and that there would be no cost to the board member for taking the training. Rep. Dolan said that the training should be available online for administration at home or in a town office; N. Hodgetts said that there would be a test for members to pass, in order to qualify to serve as a board

member. Senator Fuller Clark said that historic district commission members should also be required to take training, as should all local board members. N. Hodgetts agreed this was a good idea.

- Enhanced tools for local boards, including a toolbox of model ordinances for increasing density (cluster, form based, IZ, PUD) – especially for smaller communities without local capacity to write ordinances.

N. Hodgetts noted that there's an array of technical assistance currently available through NHHFA, OSI, CDFA, BEA, PlanNH, NBRC, RPCs.

M. Leah asked whether the Housing and Conservation Planning Program (HCPP) was considered. B. Frost said it was, but it was also recognized that the HCPP was also a specific charge of the SB 43 Commission.

Rep. Dolan said that there needs to be some mechanism hold all communities accountable for their obligation under the workforce housing law.

- Allow communities to adopt mandatory inclusionary zoning, provided it doesn't render a development economically infeasible

Rep. Dolan observed that municipalities are significant landholders, and can devote land to housing development. B. Frost said good examples of this are what's been done in Londonderry and Hanover.

J. Keeler asked how Londonderry measures project feasibility. Rep. Dolan said that it is project-specific. E. Berry said that it would be a mistake to try to define economic feasibility in statute, as there are. He said that while he likes the idea of mandatory inclusionary zoning, the problem is that there aren't many municipalities in the state where the market is so strong that the municipality will feel that it is to its advantage to adopt this.

- Planning board decision timeline; if a PB doesn't meet the statutory deadline of 65 days, then a project would be deemed approved. C. Way asked if there is a process for a board that hits roadblocks – how does a board get an extension? N. Hodgetts said that would always be a matter of negotiation between a board and an applicant. B. Frost said that if an applicant refused to supply necessary information, a planning board could always deny the application.

C. Nadeau said that the 65-day deadline is already a requirement. B. Frost said that this proposal solidifies it by requiring planning boards to take action.

Rep. Dolan said that there was a problem with smaller towns' ability to get volunteers to show up and make a quorum for a meeting. B. Frost said that this should not be a problem that is shouldered by applicants by making them wait for a board to assemble itself.

M. Leahy asked whether the 65-day decision requirement would apply to all planning board decisions. N. Hodgetts said it would, and that it is not restricted to workforce housing.

- Written findings would be required for any denial, whether by a planning board or a ZBA.

- ZBA decisions must be made within 90 days of a public hearing. There's a longer period for a ZBA decision than for a planning board because there's no completeness requirement for a ZBA application, and there's no statutory requirement for a ZBA to meet monthly.
- Court decisions must be made within 120 days of an appeal. E. Berry said this would likely be a problem, as it would take 90 days to do discovery, then the trial would also take time; he said it doesn't seem realistic.
- Local fees must be published in a single place, and an applicant must be able to calculate all fees at the time of application.
- The definition of "workforce housing" is proposed to be changed to affordability for purchase to a household at 100% Area Median Income to 120%. Senator Fuller Clark said she thought 120% was too low.

The legislative second bill addresses financial issues associated with development (LSR 2414).

- Allow tax increment financing districts for housing.
- Lengthen the affordable housing tax relief under RSA 79-E.
- Provide a tax deduction from the business profits tax for workforce housing.
- Provide a reduction in the real estate transfer tax for sales of homes under \$300 thousand.

J. Keeler asked if this would be for new production. N. Hodgetts said it would be.

- Housing Champions Certification – through a voluntary application, municipalities could demonstrate that they have regulatory provisions that encourage production of housing, including workforce housing. This would require OSI rulemaking. Certification would entitle communities to sharing of business profits tax revenues associated with workforce housing.

J. Keeler asked whether the size of the carrot for municipalities could be identified in advance. N. Hodgetts said that certification would give municipalities preferential access to certain funding sources, e.g., state revolving fund for water and sewer.

Senator Morgan said that the issue raised with regard to workforce housing is that residential developing brings with it children that will increase education costs to the community. He asked if there would be education available to combat that philosophy. He said that Brentwood encourages a lot of elderly housing, which is then subject to the elderly property tax exemption. Senator Fuller Clark said that Professor England's presentation in December would address that. Senator Morgan asked if Professor England's study could be included in the resources available to communities.

Rep. Dolan said that Londonderry has encouraged a lot of elderly housing development, and now the residents of those developments are pushing back against funding for school because



they never had children in the district. Senior-only communities tend to think of themselves as having a fence around themselves; communities become divided, creating a destructive tension; mixing of generations creates a richer environment. He said he used to be a strong proponent of elderly housing; now regrets that because of negative impacts on the community. He questions the wisdom of having incentives for over 55 housing without corresponding incentives for workforce housing.

Senator Fuller Clark said that demographer Peter Francese has been saying the same things, and suggested having him in as a speaker. Senator Morgan also suggested having Exeter's Economic Development Director, Darren Winham, as a speaker on TIFs and RSA 79-E.

Rep. Dolan asked whether we've handcuffed ourselves with the terminology of workforce housing. He said that it seems to exclude those who don't work, but are retired. E. Berry said that all other previously used terms also developed negative perceptions.

The meeting adjourned at 10:30 AM.