

Chapter 2: THE BIRTH OF A CONSERVATION COMMISSION

This chapter discusses the enabling legislation for conservation commissions, describes how to start a commission, discusses why citizens volunteer for their towns, and offers suggestions for the appointment of members.

2-1 The Enabling Legislation

The enabling legislation for municipal conservation commissions in Vermont is located in Vermont Statutes Annotated 24 V.S.A. §§ 4501 to 4506. See Appendix B for a complete copy of the enabling legislation.

The state enabling legislation passed in 1977. It describes the creation of conservation commissions, memberships and appointments, rules of operation, and the powers and duties of a commission.

The legislation describes potential roles of conservation commissions but does not contain a purpose statement or mandate. As a result, questions may arise about the extent of a conservation commission's role. Individual conservation commissions in Vermont have dealt with this issue by drafting rules and mission statements to clarify and guide their work (see Chapter 3, Rules and Chapter 4, Mission Statement).

Most municipalities and conservation commissions in Vermont interpret the enabling legislation as giving conservation commissions guidelines for their duties and responsibilities but leaving open the possibility of additional roles. Functionally, and to their credit, conservation commissions undertake a variety of activities related to the stewardship of the natural and cultural resources in their communities.

The enabling legislation clearly specifies the advisory nature of conservation commissions. They are expected to work closely with the legislative body and the planning and zoning bodies in particular. (In general, the legislative body in Vermont municipalities is the selectboard or the city council. The handbook will use the term selectboard because that covers the majority of cases in Vermont.)

For example, conservation commissions may recommend the purchase of land or rights to the selectboard. The commission may provide advisory environmental evaluations to the local planning commission and zoning board of adjustment. It is also possible for the conservation commission to gain standing and give testimony at an Act 250 district environmental commission hearing (see a later section of this handbook).

There is also an educational role for conservation commissions, as specified in the enabling legislation. They are to encourage the public's understanding of local natural and cultural resources and conservation issues related to them.

With these advisory and educational roles, conservation commissions can influence the decisions of local government and private individuals through the use and dissemination of timely, accurate information.

If questions arise concerning the powers and duties of a specific conservation commission, the commissioners should consult the state enabling legislation as well as any relevant municipal documents and should seek legal advice, if necessary.

2-2 Proposing a Conservation Commission

In Vermont municipalities, both the reasons for forming a conservation commission and the methods to do so have varied widely. Citizens in each town must decide why they want to form a conservation commission. The following are the most frequent reasons. A conservation commission empowers people to take responsibility for their town's natural and cultural resources. Commissions create and foster a sense of caring and a sense of community. A conservation commission can be a tremendous help to the planning commission, the selectboard, and other town groups.

Often, people want to form a conservation commission because they feel no group in town is stepping back to look at the "big picture" or to take the long-range view. A conservation commission works to create healthy and sustainable communities for present and future generations.

Sometimes, citizens form a conservation commission because of a specific threat to the town's natural or cultural resources. Other commissions are formed because the members want to conserve the town's working landscape or to promote stewardship of natural and cultural resources. Education of the citizenry is the reason some commissions form. By encouraging the recognition of and appreciation for natural and culture resources, conservation actions may follow.

In some cases, organizations outside the town encourage the formation of conservation commissions because these groups see the benefits of working with a locally based conservation organization that serves as the focus point for communications with the town. Often, conservation commissions become working partners with these outside organizations, which include regional and statewide land trusts and groups involved with inventorying and conserving the flora and fauna of Vermont.

The initiative and methods used to form conservation commissions have come from various sources. In some towns, one person has spearheaded the effort. In others, local planning commissions have led the way. For example, when planning commissioners are updating their town plan, the recommendation to form a conservation commission sometimes is included. In other towns, an existing local committee has evolved into a conservation commission.

For specific examples of why and how conservation commissions have been formed in Vermont, the inset boxes in this chapter describe the formation of commissions in Cabot, Georgia, Peacham, Stamford, Starksboro, Vershire, and Woodstock.

There is no one preferred method for initiating a conservation commission. However, a common and successful technique is to gain support for the formation of a commission from a core group of townspeople. The following is a general approach. Note that the order of actions can be rearranged to suit each town's unique characteristics.

First, talk with other residents in town and find several who are interested in starting a conservation commission. Approach the planning commission and ask for their support. Point out specifically how planning commissioners as well as the town can benefit from having a conservation commission. (Often, there are items in the town plan that are not being addressed and that a conservation commission could work on.)

Also, approach the selectboard. Describe the reasons for wanting a conservation commission and determine the selectboard's level of support. If there is strong support, ask the selectboard if they would add the creation of a conservation commission as a ballot item to be voted on at a town meeting. If there is not strong support, then a petition will have to be organized to get the item on the ballot (see below).

Next, hold an informational meeting to discuss the benefits of a commission in town, including potential projects or activities. This meeting could be a small meeting among interested persons held at someone's home. Another approach is to hold a public meeting for any interested townspeople and local government members. Conservation commissions from neighboring towns or the executive director or board members of AVCC can be invited to present background information.

Next, develop an action plan to create a commission. This plan should include a statement as to why the town should form a conservation commission and the benefits it will provide. A timeline can be included, based upon the deadline for getting a conservation commission on the ballot for a warned town meeting (see below).

In some cases, it may take years for a town to form a conservation commission from the time one resident starts promoting the idea to the town voting to create a conservation commission. There are many reasons for this. Often, the interest and enthusiasm simmer with one person or a few people, or the supporters wait until they have a critical mass of interested people in town. Sometimes, a town does not form a conservation commission until there is a specific project or issue that serves as a catalyst. At other times, an interested and supportive selectboard or planning commission provides the needed impetus to move a conservation commission to reality.

2-3 Voting on a Conservation Commission

The state enabling legislation explains how to form a conservation commission (see Appendix B): "A conservation commission may be created at any time when a municipality votes to create one, or, if the charter of a municipality permits it, when the legislative body of the municipality votes to create one."

Most Vermont municipalities operate under the general laws of the state, and, to create a conservation commission, their charters require a vote by the whole town. In general, Vermont's cities and only a small number of its towns have governance charters that may allow the legislative body to create a conservation commission by its own action. Therefore, in most municipalities, the townspeople must vote to create a commission. This can occur at any warned meeting but most often occurs on Town Meeting Day, held on the first Tuesday in March in most Vermont municipalities.

The formation of a conservation commission must be written up as an article to be included in the warning. The warning is prepared by the selectboard. The article should be carefully worded for accuracy and legality. A sample article is:

Article No. ____ . To see if the town will vote to create a municipal conservation commission pursuant to 24 V.S.A. §§ 4501 to 4506.

The town of Charlotte's article for the 1989 Town Meeting was worded as such: "Will the Town vote to establish a conservation commission under the authority of 24 V.S.A. 4501 for the purposes of maintaining an inventory of the Town's natural resources, receiving gifts of land for conservation purposes, assisting the Planning Commission on natural resource issues, and promoting public understanding of local natural resources?"

There are two ways to get an item such as a conservation commission on the warning for Town Meeting Day. One way is to obtain approval from the selectboard. That means going to one of their meetings and simply asking them to put a conservation commission item on the warning.

The other way is to present the selectboard with a petition signed by five percent of the registered voters of the municipality. It is wise to check with the town clerk for the size of the voter checklist, calculate five percent of that number, and then collect a safe margin of extra names to be sure the total is at least five percent. Names are struck from the petition if they are illegible or if the residents are not registered voters of the town.

Getting petitions signed provides a good opportunity to spread the idea and gain more support for a commission. People who sign the petition generally will vote for a commission, even though they are not obligated to. A quick way to get signatures is to attend a town event such as visiting the recycling center on a Saturday morning or a sports event at the school.

A petition should begin with a statement such as "We, the undersigned voters of the town of _____, hereby petition the selectboard to add the following article to the warning for the annual meeting." The statement should appear on each page of the petition. Town clerks may reject petitions if the wording of the petition appears only on the first page, with additional pages containing only signatures and names, because there is no guarantee that the wording was seen and approved by each of the signers. A sample petition is given at the end of this chapter.

Of the two methods--getting selectboard approval or giving them a petition--the former method may be considered a gentler approach and should be tried first. If the selectboard does not give their approval, then the petition method can be used.

According to the Vermont statute, one of these two methods has to be completed and the selectboard has to add the item to the warning at least forty days before Town Meeting Day. Check with the town clerk or city manager to find out the exact date (approximately the third week in January for the traditional March Town Meeting Day).

Once a conservation commission is legally warned, plan some publicity to educate townspeople on conservation commissions and encourage them to vote for its creation. This can include holding neighborhood meetings, making presentations at other meetings in town, writing articles or letters to the editor in the local newspaper, or putting up posters in prominent places, such as local stores and schools, the town office, the post office, and other popular places. Through personal conversations, meetings, and other publicity, collect the names of individuals who potentially are interested in serving on the conservation commission.

A week or two before Town Meeting Day, call town residents to remind them to attend and to vote for the creation of a conservation commission. If the municipality holds a traditional, open town meeting, petitioners should be prepared to make a convincing statement at the meeting in favor of their proposal to create a conservation commission. This is an important opportunity to persuade voters, and perhaps it should be rehearsed. Also, make sure a few key individuals are prepared to stand up and speak to the article if questions or an active debate arises.

Only warned articles can be considered at Town Meeting. Therefore, if a conservation commission is not included as an article on the warning, it cannot be formed at the section of the meeting for "other business." According to state law (17 V.S.A. § 2660(d)), "The article entitled 'other business' shall not be used for taking binding municipal action."

Petitions may be used to direct the selectboard to call a special meeting to vote on the article. However, this should be considered carefully because calling a special meeting costs the municipality, which may turn voters against the article.

2-4 Why Do Conservation Commissioners Volunteer?

Town government in Vermont is run primarily by volunteers. To be effective, towns need enthusiastic, dedicated townspeople who are willing to give their time to get the jobs done well. Understanding why citizens volunteer to serve on their town's conservation commission will help recruit new members to serve. Although the reasons vary from person to person, there are many common threads.

Some conservation commissioners volunteer because they want to accomplish conservation projects in their town and to protect their town's natural and cultural

resources. Others serve because they feel it is important to be a contributing member of their community. Many people volunteer because they feel they can make a difference.

Other commissioners serve because they want to get to know more people in town or get to know the town itself better. Some people volunteer because they enjoy the sense of pride or accomplishment when they reach goals.

For some conservation commissioners, the motives for serving are to have fun or to be outdoors. Others volunteer because they want to get involved with hands-on projects, such as picking up shovels for tree plantings or putting on waders for river cleanups. Some people serve on a conservation commission to help fulfill a sense of connection to the natural world.

Some citizens volunteer on a conservation commission because they gain leadership training experience. Still others view a conservation commission appointment as a stepping stone to other town offices, such as the planning commission or the selectboard (although the opposite occurs as well).

The desire to help future generations is another motivating factor for some commissioners. To be grounded at the local level is the reason some commissioners serve.

It is useful to write a job description for conservation commission members because townspeople will be more willing to serve (and will serve more effectively) on a commission if they understand their role. For citizens willing to put in the time and effort, the rewards are many for serving on their town's conservation commission.

2-5 Appointing Members

This section relates to the appointment of members to a new conservation commission as well as appointments to existing conservation commissions.

After a conservation commission is voted into existence, the selectboard appoints the members. Supporters of the conservation commission should attend the next meeting of the selectboard after Town Meeting to be sure that the appointments are made.

According to the enabling legislation, "All members shall be residents of the municipality." In addition, to serve on a conservation commission, members must be at least eighteen years old. However, they do not need to be citizens of the United States.

"A conservation commission shall have not less than three nor more than nine members," as stated in the enabling legislation. The selectboard is not required to appoint the full membership of nine commissioners. Some commissions have had only three members appointed and have had difficulty accomplishing their goals with so few people to do the work. Thus, townspeople should encourage the selectboard to appoint a full commission and thus promote an effective commission with many hands and diverse expertise.

The enabling legislation also describes the terms of membership. "The term of each member shall be for four years, except for those first appointed, whose terms shall be varied in length so that in the future the number whose terms expire in each successive year shall be minimized."

As an example, when a commission is first formed and nine members are appointed, the initial terms can be varied as follows: three members are appointed for four years; three members are appointed for three years; and three members are appointed for two years. Thus, after two years, three members' terms expire, and all new appointments henceforth are for four-year terms.

A vacancy exists on a conservation commission when a sitting commissioner resigns or when his or her term expires. The selectboard shall fill any vacancies as they arise. According to the enabling legislation, "Any appointment to fill a vacancy shall be for the unexpired term."

Members serve until the appointment of their successors. Thus, if a vacancy occurs because a term has expired and the selectboard has not appointed a new commissioner, the person who was holding the position may continue to hold the office legally until the selectboard acts.

The commission should encourage the selectboard to fill vacancies in a timely manner. Unfilled positions are undesirable because they increase the workload on other members and decrease available expertise.

The membership of a conservation commission is critical to its success. The selectboard should be encouraged to appoint residents who are willing to devote the necessary time to a conservation commission and who represent diverse conservation interests and different geographical sections of town. Ideally, commission members should represent different sexes, ages, skills, and viewpoints. Conservation commissions also should include members who are long-time residents of the town. Other good candidates are people who can provide links to community organizations, schools, and other government boards.

The commission should include several citizens with background experience or training in natural sciences or natural resources conservation. Other talents helpful to a commission include teaching, writing, fundraising, and business and legal expertise. Farmers; residents who hunt, fish, or trap; foresters; outdoor enthusiasts; and large landowners can be valuable commission members. People knowledgeable about ecology, natural history, plants, wildlife, soils, hydrology, land use planning, and historic preservation are good conservation commission members. It is helpful if each commissioner can read and interpret maps.

In small towns, creating a widely diverse commission may be challenging. However, the importance of having a diversity of members cannot be emphasized enough. This diversity increases the expertise on the commission, and it increases the credibility of the commission as representing the town as a whole. Diversity also combats any perception of bias that others may perceive in the commission.

Although the selectboard is responsible for appointing members, they may seek or accept input from townspeople or the conservation commission. This, however, varies town to town. In some towns, the selectboard wants no input. In other towns, the selectboard welcomes suggestions of people interested in serving on the commission. In yet other towns, the commission is expected to take the lead in the process. For a new commission, the list of interested residents that was collected before Town Meeting can be given to the selectboard as potential commissioners. In some towns, interested citizens are asked to submit a letter of interest or a resume or are asked to attend an interview at a selectboard meeting.

Conservation commissions can encourage good appointments to the commission by several methods, as follows:

- assess the skills needed on the commission and then so advise the selectboard (for example, if a clerk is needed, say so);
- recommend public notice of vacancies that includes a description of the commissioner's duties;
- encourage the submission of letters of interest or resumes from interested townspeople;
- urge qualified people to apply;
- seek the opportunity to review resumes and interview interested candidates;
- make written recommendations to the selectboard;
- attend meetings at which appointments are made or discussed.

In some cases, the selectboard and other town officials have been hesitant to support the creation of a conservation commission because of the waning number of residents willing to serve on existing commissions, boards, and committees. However, experience has shown that a conservation commission has the power to draw out previously inactive citizens who want to become involved in local conservation initiatives.

The enabling legislation does not limit the number of terms a conservation commissioner may serve. The municipality determines when terms begin, which is often at the same time elected officials take office. It is helpful to keep a list of conservation commission members that includes when a commissioner was appointed, when his or her term expires, and basic contact information such as addresses and telephone/fax/e-mail numbers.

Because the effectiveness of a conservation commission depends upon the merits of its members, the commission should develop a good working relationship with the selectboard. This will insure against key members not being reappointed or being handicapped by appointments of people who may be uninterested in conservation or, even worse, placed on the commission to limit its effectiveness.

In towns in which the selectboard routinely makes poor appointments to the commission or fails to make appointments, the commission can try to apply public pressure or the public always has recourse at the ballot box to replace the selectboard.

2-6 Removing Members

"Any member of a conservation commission may be removed at any time for just cause by vote of the legislative body, for reasons given to him in writing and after a public hearing thereon if he so requests," states the enabling legislation.

An example of a just cause is when a conservation commission member does not attend regular meetings but refuses to resign from the commission. Just cause is not philosophical or political differences nor a personality conflict. If a commissioner feels that he or she is being proposed for removal without just cause, he or she may request a public hearing to air the reasons given.

2-7 Incompatible Offices

A conservation commissioner may not hold another municipal office that is incompatible with the conservation commission position. Offices are incompatible if the duties of each engender a conflict of interest; thus, the person holding both offices would be unable to perform the duties of each with undivided loyalty and objectivity.

The enabling legislation does not mention incompatible offices for conservation commissioners. In this case, only a court can rule that two offices would be incompatible. However, it is likely that a court would find the offices of conservation commissioner and selectboard member as incompatible because commissioners are appointed by the selectboard.

2-8 Continued Existence of a Conservation Commission

Once established, a conservation commission legally will continue to exist even though it may become inactive or all of its members resign or the selectboard fails to appoint members. In the latter two cases, the commission may be revived at any time by the appointment of new members.

The procedure for legally ending the existence of a conservation commission is to repeal the ordinance that established it. For example, in towns that voted to form a conservation commission, the townspeople must vote to repeal it through a warned ballot article.

In Vermont, only the town of Bennington has taken such a step. As allowed by that town's charter, the selectboard created the Bennington Conservation Commission in 1990 following an advisory vote at a town meeting. However, less than a year later, the Commission was abolished by the selectboard. The reasons for the action apparently included that there were tensions with the town planning commission and that some people felt the Commission was a duplication of effort.

2-9 A Conservation Commission Versus a Similar Committee

Conservation committees or similar committees are anomalies to municipal conservation commissions; that is, they are departures from the usual structure. Typically, these committees are fulfilling the same roles as municipal conservation commissions in their towns. A conservation committee usually is not voted into existence by the townspeople under the state enabling legislation for conservation commissions.

For example, the South Burlington Natural Resources Committee was formed in 1966, many years before the state enabling legislation was passed. This committee was appointed by the South Burlington Planning Commission in response to rapidly growing development pressures. Its purposes were and continue to be very similar to those of conservation commissions. The Shelburne Natural Resources and Conservation Committee has a similar history.

The Weybridge Conservation Commission started out as the Weybridge Conservation Committee. During the process of rewriting the town plan, a group of citizens wanted a strong conservation input in the plan. A conservation committee was created because it seemed easier for the planning commission and the selectboard to accept and because it could be created by the planning commission on the spot. This was in 1989. The Conservation Committee built public support by working on projects for two years, including the writing of the natural and cultural resources section of the town plan. In 1991, the townspeople officially voted to sanction the Weybridge Conservation Commission.

A committee is often viewed as a less formal structure than is a commission, and a committee does not need the vote of the townspeople to be created. It is a quicker and easier method to forming a local conservation group, especially in the face of an immediate crisis or opposition to conservation ideas.

However, there are definite benefits to a full-fledged conservation commission versus a committee. Most importantly, a conservation commission has the backing of the enabling legislation for its activities. Also, a conservation commission is formed in perpetuity. Thus, the town forever benefits from having the commission, and the selectboard is obligated to keep people appointed to the commission. On the other hand, a conservation committee's existence can fall prey more easily to political and personal differences at any time.

Because municipal conservation commissions are a legal arm of town government, they are able to receive certain grants that can be awarded only to nonprofit entities. In addition, conservation commissions have other authorities and rights as mentioned in other state statutes and rules (see later sections of this handbook).

2-10 Sample Petition To Create a Conservation Commission

Petition To Create a Conservation Commission

We, the undersigned voters of the town of _____, hereby petition the selectboard to add the following article to the warning for the annual meeting.

Article No. _____. To see if the town of _____ will vote to create a municipal conservation commission pursuant to 24 V.S.A. §§ 4501 to 4506.

Name (printed)	Signature	Address
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
etc.		

(graphics: Dick Finlay photo--next to section 2-5)

photo caption: A founding member of the Manchester Conservation Commission, Dick Finlay is an avid outdoorsman, canoeist, fisherman, and skier. He volunteers his time for several other conservation organizations. Photo by Lee Krohn.

[in boxes in margins scattered throughout the chapter]:

In **Georgia**, an active ad hoc solid waste committee wanted to branch out into other types of conservation projects. They decided to evolve into a conservation commission, which the town voted into existence in 1993.

The **Woodstock** Conservation Commission was formed in 1990 as an outgrowth of updating the town plan. The agricultural study group suggested the formation of such a commission to look at long-range environmental issues affected by growth and planning and zoning decisions.

The **Cabot** Development Council was formed to build local support for business. Their first task was to run a Take Charge Program, coordinated by University of Vermont Extension, to develop a collective vision and action plan for the future of their town. One of the final action items was to form the Cabot Conservation Committee, voted on in 1994.

The **Vershire** Conservation Commission was formed in 1998 as an outgrowth of the town's involvement in Keeping Track, an organization that trains town volunteers to conduct wildlife track and sign surveys.

The **Starksboro** Conservation Commission was formed in 1990 to provide assistance to the town planning process. Their initial objective was to gather information about the natural and cultural resources in town.

In **Stamford**, citizens were concerned about a pending land purchase by the U.S. Forest Service, which already owned a large portion of the land in town. The Conservation Commission was formed in 1993, with one its tasks to be a "watch dog" of U.S. Forest Service activities.

The **Peacham** Conservation Commission was formed in 1989 in response to widespread concern in town about preserving its rural character in the face of mounting development pressure. The townspeople were particularly concerned about the steady loss of agricultural land uses.