

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Feb. 5, 2007

Present: Greg Topham, Chairman; Ted Pickering, Vice-Chairman; Richard Bell; Parker Coddington; John Sklenak; Rebecca Corkin; Debbie Dineen, Coordinator

**WPA & Bylaw Request for Determination: Drainage Improvements
Old Framingham Rd.;** Sudbury Dept. of Public Works, applicant

Present: Bill Place

Mr. Place presented a plan for roadway improvements to Old Framingham Road. A total of 5 sets of catch basins will be installed at 300' intervals. The work will be done by Rosewood Construction in conjunction with the development of the Mahoney Farms and Grouse Hill projects.

Roadway runoff currently sheet flows along the road shoulder, creating a sedimentation problem in the small pond at the bottom of the hill. The new catch basins will have sumps and grease & gas traps.

Eventually the intersection of Old Framingham and Nobscot Road will be redesigned and rebuilt. A separate Notice of Intent will be submitted for this work at a later date.

On a motion by R. Bell, 2nd J. Sklenak; the Commission voted unanimously for a negative Determination. (G. Topham not present)

Mahoney Farms Construction Schedule

Present: Martin Loiselle

The Commission reviewed the revised construction schedule dated Jan. 7, 2007 for the Mahoney Farms development for approval as required in the Order of Conditions. Concern was expressed for the timetable for the installation of the drain at the base of the hill, however, it was noted that the site was now well stabilized.

On a motion by R. Bell, 2nd by P. Coddington the Commission voted unanimously in favor of accepting the revised schedule. (G. Topham abstaining)

Grouse Hill Request for Amendment to Order of Conditions

Present: Martin Loiselle

Mr. Loiselle of Capital Group Properties explained the need for his request to extend the date for the final conservation restriction recording. CGP took title to the property just last week. They could not record the CR before they owned the land.

D. Dineen noted that conservation restrictions currently undergoing review at EOE Division of Conservation Services at this time will be delayed in the state review process. Irene DelBono of DCS has revised the format of the CR boilerplate and is requiring all new CRs and CRs in process to adhere to the new requirements. D. Dineen has sent CGP, and other applicants in the process of CR approval, the new format.

On a motion by P. Coddington, 2nd by J. Sklenak, the Commission voted unanimously to extend the final date for CR recording information to be submitted to the

Commission by May 1, 2007 due to circumstances beyond the applicant's control. T. Pickering abstained from the vote.

The Commission reviewed the reviewed the revised landscape, septic, and erosion control plan for approval. The septic system design has changed to eliminate the need for pressure-dosing resulting in a reduction of the footprint of the leaching area through the use of new technology. The system is now a Presby system that can be installed on a terraced slope and requires less area for overall installation due to the bio-filter fabric wrap and stone design. The Board of Health has approved this new system on this site. The result is a gain of 65' more undisturbed area toward the wetland. The erosion control plan reflects this additional no-disturb area.

The Commission approved this change as requested.

The Coordinator was on site last week and inspected and approved the erosion control installation method. She noted that the project will be completed in phases, however all the erosion control has been installed to allow the contractor the ability to use areas of the site for staging.

The Commission reviewed and accepted the revised Landscape Plan that now shows all plantings within wetland jurisdictional areas as approved native plants.

WPA & Bylaw Request for Determination: 33 Possum Lane

Present: John Kohler

Mr. Kohler presented his plan for additions to his house. With 3 daughters, he is adding bathrooms and making some minor enlargements elsewhere. All work will be on existing lawn or landscaped areas.

The Coordinator had visited the site and reported that the lot has a slight slope to the wetland in the rear. Due to the existing extent of lawn she did not feel erosion control was necessary. There will not be a full basement so excavation will be limited to the frost wall. Mr. Kohler added that no equipment will be necessary in the backyard as backyard excavation will be hand dug to prevent damage to the lawn.

T. Pickering moved for a negative Determination. G. Topham 2nd; unanimously in favor

Macone Property Violations:

Due to the lack of progress in achieving compliance with wetland laws more than seven months after notification of the violations, the Conservation Commission unanimously voted to assess fines as follows:

Notice of Violation issued:	July 24, 2006
Fine Assessment Voted:	Feb. 5, 2007
Duration of Outstanding Violations:	196 days
Fines per day (see the NOV)	\$600
Maximum Amount of Fines to Date:	\$117,600

Fines Assessed 2/5/2007: \$ 58,800

Due to the recent hiring of a wetland scientist to perform a full wetland delineation, the Commission continues to want to work cooperatively with the property owner and Town Counsel toward the goal of wetland restoration. Therefore, the assessment is only for 50% of the total amount of fines which can be levied, and the Commission is agreeable to having the fines placed in an escrow account that may be drawn upon for the restoration of the wetlands. The fines are due and payable immediately with Sudbury Town Counsel holding the escrow account.

The Conservation Commission reserves the right to assess, collect, and deposit to the Town Treasury, the full amount of the fines due if the Commission determines sufficient progress toward restoration and full compliance is not being achieved in a timely manner. Fines will continue to accrue until a Notice of Intent acceptable to the Commission is submitted to restore the wetlands jurisdictional areas, pre-alteration, to their original values and functions.

The Coordinator will discuss this approach with Town Counsel prior to the issuance of the Fines notice.

Joint Meeting of the Rail Trail CAC with the Conservation Commission

Present: Pat Brown; Dick Williamson; Bridget Hanson; Jennifer Pincus; and several residents

Chairman Topham opened the meeting by welcoming the RTCAC to the discussion of the Bruce Freeman Rail Trail Feasibility Study and other BFRT environmental issues. He began by stating that the Conservation Commission is bound by state and local wetlands laws to review all projects for compliance with the performance standards in those laws. He noted that early input from the Conservation Commission often result in the saving of taxpayer dollars for public projects.

Commissioners expressed concern that they had not been given the opportunity to comment to FST and the RTCAC on the draft Feasibility Study. They were told by the Selectmen's office that no Boards were being asked to comment on the draft. Pat Brown noted that FST did ask for comments from the Historical Commission.

Bridget Hanson stated that she believes the wetland delineation at this time is premature. Other issues such as the title search should be done to be sure the project can move ahead before spending more taxpayer's money on other studies. She added that holding the BFRT project to the highest environmental standards makes sense.

Dick Williamson stated that FST was to coordinate with the Conservation Commission on the Feasibility Study. D. Dineen replied that she was never contacted by FST. The only participation she was asked for was to walk the rail bed with Dennis Marshall, environmental sub-contractor to FST, and to comment as a town staffer on the draft Feasibility Study. She submitted extensive comments to FST and RTCAC on the draft study. These comments did not reflect the comments of the Conservation Commission as she was denied authorization by the Town Manager to release the draft Study to the Commission. She walked two-thirds of the rail bed with Mr. Marshall, however, he never called to set up a walk for the northern third of the trail.

Conservation Commissioners did not understand how a Feasibility Study could come to realistic conclusions without the Conservation Commission's input. The Commission will be the major regulatory permitting board for the project and was not

consulted on the jurisdictional natural resource areas involved and the criteria for approval for the designs discussed in the Study.

It was the understanding of the Commission that the Feasibility Study and the RTCAC would be helping the Selectmen identify a concept for the BFRT that the entire town can approve of. The scope of what was contained in the Feasibility Study was not enough to address the most basic issues. Pat Brown noted that the Feasibility Study was not about feasibility and the 25% design study is not about design.

Chairman Topham stated that he found it disturbing that there is no defined route to identify local issues. The only defined route to a trail appears to be the Mass Highway process and that is what is being followed.

T. Pickering observed that the financing appears to be driving the options. D. Williamson stated a concern of the Selectmen's is that the town be 100% financially responsible. He added that as long as the town wants a transportation-related use of the rail bed the EOT will be OK with what is designed.

D. Dineen stated that it would be nice for the town to have a vision of the trail so that the cost of this vision could be known. The town could then compare the cost of a federally funded trail and a locally funded trail. Based on the difference, the town could then decide what financial, environmental, and historic trade-offs to explore further to make the trail work for the maximum benefits of all the needs and wishes of the town.

J. Sklenak noted that the town has a Master Plan. It is now six years old and the population of the town has changed. The Master Plan emphasizes the need for natural resource protection, walkways, trail linkages, protection of water supply, and preserving the rural character of the town, etc. All of these goals and objectives should be taken into consideration with any municipally-funded or maintained project.

D. Williamson stated that over 600 families signed a petition saying they want the trail. Commissioners were not surprised and agreed that conceptually, the trail is a good idea but wondered if the same 600 people were confronted with the trades off, environmental, scenic, water quality, etc. how far they are willing to go for the trail.

T. Pickering stated his concern for contamination along the right-of-way and the lack of sampling that is permitted before the town commits to a lease with EOT. D. Williamson stated that with a combination of best management practices and the Brownfields laws, risks can be insured against. Testing can only be done where there are known spills or prior contamination. The trail will be designed to keep all materials within the railbed and cap it. The materials may be moved throughout the right-of-way. Commissioner Pickering noted there is a difference between liability and an actual health hazard. He added that cuts and fills will release any contaminants in those areas. He questioned how and to what degree the Mass. Contingency Plan will apply to this project. He questioned if there could be AULs (areas of use limitations) identified and how this might affect the trail. Mr. Williamson noted that the right-of-way is owned by the EOT and this state agency does not want to be liable for anything found. He added that CSX requires asphalt capping.

J. Sklenak stated concern that the process is designed to get around regulations rather than addressing the real concerns, e.g. children playing off the trail bed itself in areas of contaminated soils, and the alterations to the ecological processes by release of contaminants. Commissioners explained that the MHD's best management practices may

not address issues of local concern. The idea of capping might be fine in towns that do not get water from municipal ground water wells.

Bridget Hanson summarized some of the Commissions stated concerns; that the FST Study was lacking in information necessary to determine feasibility; that the project should adhere to the Sudbury Wetlands Bylaw;; and that a vision of the trail and a process for developing the design and construction should be local.

Chairman Topham restated that the Conservation Commissions permits will be based on law and science to the highest standards that are applied equally to all other private, commercial, federal, state, and municipal projects.

Paul Cavicchio, 110 Codjer Lane, expressed astonishment that the Conservation Commission has not been able to have input to the process to date. He believes that the questions and concerns of the Commission need to be addressed before any more money is spent on the project. His concern is at point is “point- of-no-return” reached as far as spending. He added his concern that the Selectmen’s decisions won’t be based on science and law and the Selectmen will be pressured to move forward.

David Duane, Methods Machine Tools, Union Ave., noted that his business had to go through extensive wetland laws and lead based paint laws. He wondered how much the BFRT will have to deal with arsenic and lead on the rail bed.

Mimi DiMauro, Peakham Road and local business woman, questioned how the Town Meeting voters who voted for the Feasibility Study will feel when they find out the real questions were not answered. She felt it is an incomplete study as it does not have input from the Conservation Commission or most other Boards. Why would the voters want to pay more money for more studies when they never got what they already paid for? She believes the basics need to be completed before more funds are requested. She questioned if the Conservation Commission’s representative to the RTCAC was really representing the Conservation Commission or her own personal views..

Steve Blanchette, 11 Peakham Road, Mr. Blanchette stated he believes the public at large is ignorant of the rail trail issues. He did not think the towns people would vote based on cost of the trail.

Melanie Weaver, 248 Old Lancaster Road echoed previous concerns about the lack of conservation input to the process to date.

Miner Crary, 1 Hunt Road, stated he found it astounding that there are no use estimates con the extent of work and funds for both the EOT and CSX rail beds.

Pat Brown will look into adding Appendices to the FST Study to address the issues brought up tonight.

Both Boards thanked each other for the joint meeting and will keep informed..

Meeting adjourned at 10:35pm.