

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, May 9, 2016

Present: Tom Friedlander, Chairman; Mark Sevier; Bruce Porter; Dave Henkels; Debbie Dineen, Coordinator; Charlie Russo (6:40pm arrival); Rob Elkind (6:45pm arrival)

Discussion: Bruce Freeman Rail Trail:

Formation of a BFRT Design Task Force:

Present: Pat Brown, Chairman Board of Selectman

T. Friedlander explained that he would like to see the Conservation Commission, the Board of Selectmen, and the Town's planning consultant, and VHB, Inc, work together and have a discussion of alternatives to the MA DOT-designed rail trail. He suggested a small task force be established by the BOS to facilitate this discussion.

P. Brown stated that the Town has hired Michele Ciccolo to pursue the rail trail. She noted that the VHB/Sudbury contract proposal included looking at alternatives. She thought this could be a good idea and will discuss it with the Town Manager. T. Friedlander felt that the discussion on alternatives should be initiated before the 25% design goes any further. He saw no reason to wait. He also noted that no information on the status of the 25%, or other information regarding the BFRT has been provided to the Conservation Commission. D. Dineen added that the Town could possibly save time and money by involving the Commission in a discussion of alternatives early in most aspects of the process. B. Porter added that the Town cannot lose by having the Commission involved in the early stages of design.

M. Sevier wasn't sure that having the Commission involved will guide the design. He felt that there is too much polarity already with this project. He added that he thinks the Commission should only be involved in the design mechanics of the project – engineering and design - but not placed in a situation of taking a role in public meetings on the issue.

D. Henkels questioned the timing of having the Commission involved now and why has it not been involved to date. T. Friedlander noted that he is suggesting a cooperative effort with several parties on this project. The Selectmen indicated that they would look at designing the rail trail to meet the local wetlands bylaw to the extent feasible. The Commission can help identifying these parameters. He asked Pat Brown to discuss these ideas with the Town Manager.

B. Porter stated that working together was a good idea. C. Russo and R. Elkind agreed and noted that the Commission should have early involvement in specific design issues. C. Russo added that the Commission can provide proactive comments early in the design as well as identify areas of concern.

T. Friedlander summarized the Commission's thoughts on early involvement. The Commission feels it is important to be involved in the early technical and engineering design with the Town's consultant and the BOS, but not with public discussion and debate.

Survey Trimming

T. Friedlander informed the Commission that DEP had approved the trimming that took place for the surveying along the rail bed.

Review for Approval: 71 Ford Rd. Planting Plan

Present: Natalie Massarotti

Mrs. Massarotti presented a plan for the replanting of a wetland area where trees were removed. A small retaining wall was installed at the edge of approved lawn.

The Commission determined that plants may go in below the wall. They do not have to be located at the top of the wall per the Order of Conditions. It makes more sense to have the plants supplement the wetland values and functions. They do not have to be clustered as shown on the plan. They cannot be in a mulched or otherwise landscaped bed. The intent is that they become part of, and contribute to, the natural area.

Mr. DiModica had submitted soils information indicating that the soils were suitable for the driveway trench infiltration.

On a motion by R. Elkind; 2nd B. Porter, the Commission voted unanimously in favor of approving the planting plan as discussed. No mulch shall be placed under the plantings.

Discussion: Lots 4 and 5 Fairbank Rd. #301-1149

The Coordinator informed the Commissioners that the Board of Health Director informed her that at least two variances from local Board of Health regulations for off-set to groundwater and sidewall leaching area is required for the septic system shown on the plan approved with the Order. This need for a variance was not disclosed to the Commission at the time of the hearings on this project. The project did not have the benefit of the Presumption in WPA 10.03 (3) due to the need for these variances. Therefore, the Order was approved by the Commission on false assumptions due to failure of the applicant to disclose the need for variances. The Commission can, after a public hearing, vote to rescind or amend the Order.

Scott Goddard, Goddard Consulting, who was involved in the project from a wetland delineation and vegetation restoration aspect, noted that there are only two scenarios when an Order can be rescinded. One is the concurrence by both parties of a factual error, or fraud.

B. Porter felt that a public hearing should be scheduled to discuss rescinding the Order. Commissioners agreed and a hearing will tentatively be scheduled for June 6. Abutters will be notified. M. Sevier asked that written correspondence be sent to the applicant stating that no work should proceed on the lot until the Board of Health and Conservation Commission issue or reissue permits.

Violation Updates

Lot 56 Bigelow Drive:

Present: William Senecal; Scott Goddard

The Commission held a discussion on a request from DEP to amend the Enforcement Order. DEP prefers to handle this violation through an Administrative Consent Order. They will require immediate stabilization of the lot. D. Dineen suggested stabilization with jute netting and the submission of an interim as-built plan to show that work done to date is in compliance with the approved plan. Scott Goddard noted that there is still some minor grading to be done. No erosion is evident on the site. Sodding can provide permanent stabilization within 1 -2 weeks.

Mr. Senecal stated that he is confident that work done to date complies and he is willing to risk having to remove sod should it be found that the property is not in compliance and areas need restoration.

On a motion by C. Russo; 2nd R. Elkind, the Commission voted unanimously in favor of amending the EO to require immediate stabilization of the site and remove the requirement for filing an NOI. Stabilization can be with sod at Mr. Senecal's risk.

24 Pelham Island Rd.

T. Friedlander informed the Commission that he and Dave Henkels visited the site in response to a neighbor's concern. They found no additional encroachment into the wetland areas. The clearing and burning was in preparation for the reseeded in accordance with the Commission's instructions. D. Henkels noted that there is no confinement for the animals to prevent them from entering the restoration area.

A letter will be sent to Mr. Hauser reminding him that he cannot expand his agricultural operation, including any grazing, into any wetland areas without first obtaining an Order of Conditions approving the expansion.

New Notice of Intent: 72 Wagonwheel Rd. – Vote: Peer Review of wetland delineation

D. Dineen showed the Commission the plan for a new NOI for a substantial house addition in the riverfront area. The lot contains riverfront, bank, bordering vegetated wetland, land under waterbody, and adjacent upland resource area. She suggested a peer review of the wetland line could be considered, especially as it pertains to identifying the mean annual high water of the river. The applicant has agreed to continue the hearing to June 6 to allow for a site inspection.

Scott Goddard, wetland scientist for the project, suggested that a site inspection may find that a peer review is not necessary. Mean annual high water would be the constraining factor and can be looked at in the field. All parties agreed to hold an inspection before any reconsideration of a peer review.

Discussion: Develop Procedure for Certificates of Compliance on Order of Conditions prior to 1994

D. Dineen informed the Commission that as part of file reorganization and clean-up in the office, a number of old Orders of Conditions from the 1990's and earlier had never been recorded at the Registry of Deeds as required of the applicant were identified. Many of these files were pre-wetlands bylaw and involved work only in what was considered the wetlands buffer zone at the time. Examples include the lots on Greystone Lane. This presents a problem as most of the properties have changed hands several times and the current owners had no idea there was an outstanding Order on the lot. The Commission needs to close out the Orders in some manner. She recommended that the property owners be sent a letter informing them of the situation and listing the standard perpetuity conditions that were part of the Order. The letter would be for informational purposes only and would provide guidance to the homeowners for maintaining healthy resources on their land.

On a motion by C. Russo; 2nd B. Porter the Commission voted unanimously in favor of the approach to closing these files as described. D. Henkels abstained.

Certificates of Compliance: Dudley Brook Preserve DEP File #301-1099

A Commission site inspection was held on April 1, 2016. Present were T. Friedlander; B. Armstrong; D. Henkels; B. Porter; D. Dineen; Bert Corey of Schofield Brothers. The as-built plan has been received. All work was done in accordance with the approved plan and the site was fully stabilized.

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted unanimously in favor of issuing the COC.

Conservation Commission Reorganization

On a motion by D. Henkels; 2nd B. Armstrong; the Commission voted unanimously in favor of reelecting Tom Friedlander as Chairman and Beth Armstrong as Vice-chairman for another one-year term.

Discussion: Determine Commission would like to go out to bid for Agricultural Licensing:

On a motion by C. Russo; 2nd R. Elkind; the Commission voted in favor rebidding the one-acre field at Landham Brook Marsh for agricultural use. M. Sevier abstaining. D. Henkels opposed. T. Friedlander, C. Russo, B. Porter, R. Elkind, in favor. Motion passed.

On a motion by C. Russo; 2nd D. Henkels; the Commission voted unanimously in favor rebidding the four-acre field Dutton Rd. @ Carding Mill Pond for agricultural use.

Review for Acceptance/Appeal:

DEP Superseding Order: 526/528 Boston Post Rd.

DEP SDOA Sudbury Station

The Commission reviewed the Superseding Order for National Development at the former Raytheon site and the Sudbury Station at Town Center Superseding Determination. They accepted both DEP decisions and will not appeal.

Sign: Surety Bond for 26 Goodman's Hill Rd.

The Commission signed the \$6,000 surety bond for restoration work at 26 Goodman's Hill Rd.

Feedback on L-S Adult walks and other Commissioner Activities

Both D. Henkels and D. Dineen have lead walks so far. They both reported 7 walkers had shown up for the 1 ½ hour walks through conservation land and that it was a good, inquisitive group.

Discussion: Community Garden Policy Changes re: Shared Plots

R. Elkind reported that a gardener at the Sudbury Community Gardens expressed to him that the garden did not have enough perennial plots available to accommodate all who desired them. Gardeners do not like the net fencing requirements and would like the ability to place field cameras in the area to deter theft.

Commissioners discussed the fact that perennial plots were limited intentionally to allow the majority of the field to revert to wildlife habitat during the non-growing season. The Commission is attempting to achieve a balance of intense use and habitat use areas. The ban on the flexible fencing was put in place last year to prevent additional bird kills after reports and photos of birds trapped in the netting were provided to the Commission. The Commission had previously agreed that cameras in the garden were not desired. This has not changed.

T. Friedlander added that this year two bee hives had been permitted to attract more pollinators to the area. These hives can be placed anywhere in suitable locations in Lincoln Meadows north or south.

On a motion by C. Russo; D. Henkels 2nd; the meeting was adjourned at 8:35pm.