



***SUDBURY CONSERVATION COMMISSION MINUTES***  
**Meeting Minutes of Monday, January 23, 2023**

**Present:** David Henkels, Chair; Ken Holtz, Vice Chair; Richard Morse; Bruce Porter (6:53 pm); Mark Sevier; Luke Faust, Associate Member; and Lori Capone, Conservation Coordinator

**Absent:** Jeremy Cook; Kasey Rogers

The meeting was called to Order by Chair Henkels at 6:45 pm.

**Minutes:**

On motion by Comm. Sevier to accept the minutes of the October 17, 2022 meeting, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

**Wetland Applications:**

**Notice of Intent: 58 Massasoit Avenue, DEP #301-1376**

Chair Henkels re-opened the Notice of Intent hearing to demolish and reconstruct a single-family home within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from September 12, October 3, and October 17, 2022.

On motion by Comm. Holtz to continue the hearing to February 27, 2023 without discussion, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

Comm. Porter joined the Meeting at 6:53 pm.

**Notice of Intent: 5 Hunt Road, DEP #301-1380**

Chair Henkels re-opened the Notice of Intent hearing to construct an addition to an existing single-family house within the 100-foot Buffer Zone and the 100-foot Adjacent Upland Resource Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from October 17 and December 12, 2022.

On motion by Comm. Morse to continue the hearing to February 27, 2023, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

**Notice of Intent: 15 Elmwood Avenue, DEP #301-TBD**

Chair Henkels opened the Notice of Intent hearing to replace a septic system within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Ronald Strohsahl of Oxbow Associates, representative to the applicant, Mr. Eugene Warner, was recognized for his presentation.

Mr. Strohsahl stated that he has completed the flagging of the wetland. The applicant is looking to sell the property. The septic system does not meet the requirements of Title V. The plan is to replace the existing cesspool and laundry pit with a new sewage disposal system and leach field in the front of the house. The wetlands were flagged on December 2, 2022. The parcel forms a rectangle south of Elmwood Avenue, and slopes downward. A large amount of fill was added up to the property line, and has been there for over 70 years. It has been maintained as lawn with some moss along the fringes.

The wetland is a shrub wetland and surrounds the parcel on three sides. It is in a large isolated wetland, with no culverts draining out of it. Under the Act, because the wetland is isolated, it could be considered Isolated Land Subject to Flooding with no associated Buffer. However, the Bylaw states that ponds are 5,000 square feet or greater in surface area. This area has a pond with a surface area of about 6,500 square feet as determined from an analysis of aerial imagery. Since this exceeds the Bylaw limit, the wetlands should be considered Bordering Vegetated Wetlands.

Since the pond changes size over time and could possibly exceed the 10,000 square foot limit in the Act, the applicant is filing under both rules.

There is a slight topographical change from the front yard to the back. A cesspool is located adjacent to the wetland line. Soil samples suggest there is groundwater about 6" below the surface. The cesspool probably floods intermittently.

The plan is to remove the cesspool and laundry pit by pumping and backfilling. The water lines will be rerouted around the back. A new septic tank will be installed in the front yard. A new leach field will be located in the front yard against the road, and partially under an existing gravel driveway. They will also have to reroute the water line around the septic system, keeping at least 10 feet away as required by drinking water guidelines.

The entire property will be surrounded by erosion controls. The leach field will be as far as possible from the wetland. The entire property is mostly within 50 feet of wetlands, and entirely within the 100-foot Buffer Zone. The project was sited within the legal bounds of where a septic system can go. It is also in the area most advantageous to the wetland. The project will definitely improve protections to the ground water, and probably surface water.

Mr. Warner stated that he is not the owner of the property, however, he has entered into a purchase agreement with the current owner, Ms. Lynn Pellegrino.

Coordinator Capone stated that the lot was likely filled-in wetlands when it was created back in 1940s. This is the best that can happen with this site, given existing conditions. Mitigation is not usually required with a septic replacement, but the property is changing hands. She recommends some mitigation to restore some lawn to a natural state, at the bare minimum.

She further recommended that the wetland boundary be permanent demarcated so that future owners know where the edge is. The Order is not ready, but she has no concerns about the proposed work. One condition should be to limit the existing house. There are two bedrooms currently, but system is designed for three bedrooms. A Deed Restriction should be placed in the Order to prevent the addition of more bedrooms to the house.

In response to Comm. Holtz, Mr. Strohsahl stated that there is a Variance requested from the Board of Health for a lot line encroachment by the septic system. Coordinator Capone stated that she has confirmed with the Health Inspector that the design was approved with the Variance.

Mr. Strohsahl stated the homeowner is willing to install willow trees in the rear of yard instead of shrubs. Coordinator Capone replied that she has no concerns with that.

In response to Comm. Holtz, Coordinator Capone stated that willow trees do well in wet conditions. Mr. Strohsahl added that, in the spring, the groundwater is less than a foot from the surface. Additionally, berms around the side of the yard stand at about 6-inches high, and prevent surface water from entering the yard. There is a live Eastern white pine at the end of the erosion control line which will have its roots cut during the project, and may need to come down. The willows are partly intended to replace this pine. Coordinator Capone added that mitigation plantings in the rear are more beneficial to the wetland than planting in the front.

Coordinator Capone stated that she would draft the Order with the two conditions stated previously. The draft would be provided to the applicant and representative for review prior to the next meeting.

On motion by Comm. Sevier to continue to February 6, 2023, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

**Request for Determination of Applicability: 0 Dutton Road, Memorial Forest, RDA #23-1**

Mr. Dylan Zickus, representative for the applicant, Sudbury Valley Trustees, was recognized for his presentation to construct a boardwalk within Bordering Vegetated Wetlands and 200-foot Riverfront Area in the Sudbury Valley Trustees Memorial Forest.

While the applicant addressed a technical issue, Coordinator Capone stated that the applicant proposed to replace an existing boardwalk along the gas line running through the Memorial Forest. An existing bridge that crosses Cranberry Brook is in good shape, but there is a wet area between the stream and a Bordering Vegetated Wetland associated with Trout Brook that tends to get muddy. They are looking to replace it with a new bridge, which will be removeable because it's on a gas line that is periodically mowed. They are proposing to build a boardwalk offsite and place it on concrete blocks.

Mr. Zickus stated that he is an Eagle Scout with Troop #41 in Marlborough, and this is his Eagle Scout project. The site is near Cranberry Brook, gets very muddy, and is not traversable during the wet season. Hikers have to go off the trail and damage the surrounding vegetation and causing erosion. The goal is to prevent future damage to the site by installing a boardwalk. He shared pictures of the site showing flooding. On a visit to the site with Dan Stimson, they lifted the existing bridge enough for water to pass beneath. This bridge was just above the water, and is rotting. The bridge causes water to go around it, creating an impassable trail. During their site visit, they found and rescued salamander eggs.

He added that, during the dry season, this area is overgrown. Invasive buckthorn will be removed as part of the project, and the trail will be widened for easier access. The location is in the Desert Trail area, crossing over a pipeline near Trail C. It is also located in a shallow marsh conservation zone on the Sudbury-Marlborough border. It is about 150 feet from Cranberry Brook.

Mr. Zickus went on to discuss the installation details and procedure. He plans to clear the site, including buckthorn, and widen the trail to 4 feet wide, the same as the width of the bridge. They will move the old bridge offsite and dispose of it. To assemble the new bridge, he will cut and make bridge sections off-site, then transport it to the site by vehicle. It will be assembled with hand tools. Since it must be removeable, small removeable sections will be supported on cement blocks.

The design will accommodate horse traffic, and is based on another bridge on the S Trail. It will have an artificial turf cover for horses to walk up the ramps, which are sloped to about 10 degrees. The design will include curbs to dissuade horses from standing on edge, and will be strong enough to support a horse's weight. The bridge will also be accessible to bikers.

The original bridge was 12.5 feet long by 4 feet wide. The new bridge will feature a 56-foot long flat section, divided into 4 X 14-foot-long removable sections and two ramps with turf. It will be 7 inches off the ground, which is taller than the previous bridge. This will allow water to flow beneath. A permit will be required for the use of the vehicle access point.

Coordinator Capone state that this project, by rerouting traffic, will be beneficial to the wetlands.

In response to Coordinator Capone, Mr. Zickus stated that the trails would be widened just near the bridge, and there will be no additional wetland impacts. He proposed that Mr. Dan Stimson of the SVT identify plants in the area of the site to see if there are native plants that might be kept. As the bridge will be the easiest route, traffic will naturally follow it and there are no plans to close off the rerouted trails. These should fill in naturally over time. Coordinator Capone stated that the only condition should be that the project is photo documented.

In response to Comm. Holtz, Mr. Zickus stated that the gas company would bring in heavy machinery to move the sections. They could probably be moved by hand as well, based on his earlier site visit with Mr. Stimson. The new bridge will be about 3.5 feet longer for each section. The weight could not be estimated.

In response to Coordinator Capone, Mr. Zickus indicated that he had been in communication with the gas company. He will confirm with them that they will move the sections. The current status of the rescued salamander eggs is unknown. It is also not known if the gas company will be responsible for replacing the bridge sections after removing them for mowing operations.

In response to Comm. Sevier, Coordinator Capone stated that the gas company probably carries out maintenance in this area annually or biennially. It was unclear whether a heavy machine is used, or a weed whacker. Mr. Zickus

added that highest part of the walkway will be 30 inches off the ground, while the bottom of the bridge will be about 7 inches off the ground at the lowest point. He would consider anchoring the bridge if necessary, to keep it from drifting, but the goal was to make it removeable.

In response to Comm. Holtz., Mr. Zickus stated that he is hoping to start in the spring, around April. He would be available to come back before the Commission, and agreed to contact the gas company for answers.

In response to Chair Henkels and Comm. Sevier, Mr. Zickus stated that Mr. Stimson has been able to contact the gas company and has been able to get a response.

Comm. Holtz questioned where the bridge would be moved during mowing. Comm. Sevier observed that the site is not accessible by mower.

In response to Comm. Morse, Coordinator Capone suggested that the SVT might agree to take responsibility for the bridge after it is installed.

Comm. Sevier stated that discussion is extending beyond the scope of this project.

In response to Coordinator Capone, Mr. Zickus agreed to continue the discussion at the next meeting.

On motion by Comm. Morse to continue to the February 6, 2023 meeting, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

**Notice of Intent: 150 Wayside, 80, 94, 100 Pride's Crossing, DEP #301-1383**

Chair Henkels was unable to open the Notice of Intent hearing for an after-the-fact filing to clear trees and create a pasture within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. At the time of this Meeting, certified mail receipts for the abutter notifications had not been received. The hearing will be opened at the February 6, 2023 Meeting.

**Minor Modification:**

**Bruce-Freeman Rail Trail, DEP #301-1362:**

Chair Henkels initiated a discussion to consider a minor modification to the Order of Conditions to allow storage of chipper machinery overnight at select locations within jurisdictional areas along the Bruce Freeman corridor.

Coordinator Capone stated that the construction started today. The corridor was walked last week with the tree company. The contractor has requested to store one piece of equipment in jurisdictional areas. The chipper machine can only move at about 1 mph, so large segments of the corridor would take inordinate amounts of time to move the equipment outside of jurisdiction for storage overnight. The contractor has provided a schematic showing details for protecting equipment from leakage at night.

Chair Henkels recognized Mr. Michael Brooks of A.A. Will Corporation, and general contractor for the project. Mr. Brooks stated that it would be impractical to move the chipper out and back each night due to its low speed of travel. It would also create more exposure for the Buffer Zone. He proposed to put down 10-Mil Poly and 12-inch straw wattle to surround the chipper at the end of the day. They will put it on a pad for overnight storage.

In response to Chair Henkels, Coordinator Capone stated the tree removal operations will take about five weeks to clear corridor. The contractor is asking to park at end of each day where the work is left off. There are a couple of locations that are to be avoided. These areas have steep slopes on either side of the raised corridor, with wetlands at base, so that a spill could be significantly damaging. There is one area north of Pantry Road near Davis Farm, where the corridor is narrow and the wetlands are directly adjacent to railbed. The plan to not to park in those locations, but rather to park in the outer Buffer Zone.

In response to Comm. Sevier, Mr. Brooks stated that the rails will still be in place. One track will be in the gauge of the rail, the other track outside. It will not be hard to install the Poly over the rails, and it will be thick enough to

avoid damage, but they can add another layer if necessary. Coordinator Capone added that she or an environmental monitor will oversee this and ensure it is functioning properly.

In response to further questioning by Comm. Sevier, Mr. Brooks stated that other vehicles will drive back and forth to collect and remove the debris. These will be size 350 pickups. Refueling of the chipper will take place at the road crossings.

In response to Comm. Morse, Mr. Brooks stated that the chipper will have a kill switch. It can run for a few days on a single tank of fuel. The total of volume of all fuel and other fluids is about 112 gallons, which can be contained under the current plan. He does not anticipate vandalism. He has done this type of project before without issue.

In response to Chair Henkels, Coordinator Capone stated that the machinery will not cross either of the bridges. They will back out and come in the other way. There is a potential vernal pool north of Pantry Brook, but she will consult the plan and confirm this. Hand clearing of the corridor started today, and the chipper will be onsite within a couple of weeks. The proposed containment solution should be able to manage a catastrophic failure, but if not, the contractor will need to come back before the Commission. She believes this request is small enough that a minor modification is preferable to an Amended Order.

In response to further questioning by Chair Henkels, Coordinator Capone drew a distinction between the chipper and other construction vehicles. Only the chipper is under consideration tonight, as it is the first vehicle to be deployed to the project site. Parking for other vehicles can be considered at a later meeting.

On motion by Comm. Holtz to issue a minor modification, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

#### Other Business:

##### Short-term Use Agreement – Lincoln Meadows South Conservation Land: Neuco

Chair Henkels stated that Coordinator Capone has been working with Town Counsel to develop a License Agreement for use of a staging area on conservation land. The area is about 10,000 square feet and is being used to store vehicles, equipment, clean gravel, and a portable toilet until March 31, 2023.

Coordinator Capone stated the License is standard, and addresses rent as well as a Bond to be collected to cover damages. The contractor has said he will fix ruts and loam and seed the area upon completion of the project. Should that not occur, the Bond will be used to hire someone to do the restoration work. The contractor said that, for past projects with similar sized staging areas, he has paid \$1,000 for rent. Coordinator Capone recommended a rent of \$1,000-\$1,500 and a \$10,000 bond for restoration. The Commission should confirm that they want to enter into an Agreement, and what the rent and Bond amount should be.

In response to Comm. Holtz, Coordinator Capone stated that she presumes the contractor will not water the area after seeding it. There is water at the site. The Conservation Office could take responsibility, or they could ask Cavicchio, who will be cosigner to the Agreement. This is a fairly easy task, and if seeding occurs in late March or April, rainfall will lessen the amount of watering needed.

In response to Comm. Holtz, Coordinator Capone stated that the collected rent goes to the Commission, similar to rent from agriculture on Conservation Land. The Town holds the Bond until the Commission is satisfied with the restoration.

Chair Henkels suggests that rent be set at \$1,250.

On motion by Comm. Sevier to enter into a License Agreement with \$1,250 monthly rent and \$10,000 Bond, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

##### Renew Agricultural License Agreement with Mark Kolonoski to harvest sap at Barton Farm

Coordinator Capone stated that the Commission entered into a similar License Agreement with Mr. Kolonoski last year. He would like to tap five sugar maples per year along the frontage of Barton Farm, rotating trees so as not to

tap the same trees repeatedly. There are no costs associated with the License, but provides a recreational benefit to the Town by the removal of buckthorn from the property. Last year it was removed around the kiosk and the Town can manage the buckthorn by routinely mowing. If the Commission entertains another one-year License Agreement, she recommended continued efforts to remove buckthorn in area of the maples.

On motion by Comm. Morse to renew the License, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

### **Warrant Articles**

Chair Henkels stated that there are three standard Articles before the Commission associated with our Revolving Accounts.

Coordinator Capone stated that the forestry account currently has no money. It was established when the Commission was considering a forest cutting plan for King Phillips Wood, and has remained open since. If the Commission ever hires a forester to harvest timber from any of the Conservation Lands, this fund could accept the money. The Commission could expend \$10,000 a year from that account. It would go to other forestry efforts, but there is no plan for the account at this stage.

Wetland application fees also go into a revolving account. The funds can only be expended for the administration and enforcement of the Act and Bylaw, and can't go into any other account. The Commission can expend \$50,000 per year, more so if a decision is appealed. The fund pays for consultants to act as witnesses on the stand or to pay for special counsel if the matter is outside the scope of Town Counsel.

The third account under consideration is for agricultural License Agreements, and this is used for recreational purposes. It can also be used for large projects when no other funds are available. An example of this was the collapse of Ford's Folly.

In response to Comm. Morse, Coordinator Capone stated that if the Commission ever undertakes a forest cutting plan, the person doing the work would pay us for the timber, and the money would go into the revolving forestry account. The Commission could expend up to \$10,000 once the money is allocated.

On motion by Comm. Morse to submit all three Warrant Articles, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

### **Town Report**

The Commission discussed the draft Town Report to submission. In response to Comm. Holtz, Coordinator Capone stated that the Bruce Freeman Rail Trail will hopefully take less than two years to construct. There is no other component to that project.

In response to Chair Henkels, Coordinator Capone stated that there has been some success with controlling invasives at the pollinator garden at Davis Farm. Black-eyed Susans were on brilliant display in the first year. The hope was for a more diverse assemblage of plants than before, but the drought may have impacted this. A lot of seed was thrown down in addition to plantings. Bittersweet and buckthorn will continue to be a challenge. There is also mugwort present at the site.

In response to further questioning by Chair Henkels, Coordinator Capone stated that Broadacres is not currently being used for agricultural purposes, although there is potential. Lincoln Meadows might also host agriculture if the community garden moves. There is also some back land that might be useable for fields. Mahoney Farms is currently hayed, but there is potential there for other uses.

On motion by M. Sevier to issue the 2022 Town Report, seconded by R. Morse, via roll call the vote was unanimous in the affirmative.

### **Rail Trails**

Coordinator Capone stated that work on the Bruce Freeman Rail Trail started today. At the Mass-Central corridor, Eversource has cleared from the Substation to Bridge 127, and the Hudson Town Line to Dutton Road. A 300-foot

section is left between Dutton Road and Bridge 128. They have started to install erosion controls and pull rails, ties, and stumps. A tour with Select Board was held last week from the Substation to Bridge 127, and they were pleased with the work being done.

### **Electronic Signatures**

In response to Bruce Porter, Coordinator Capone stated she met with Mark Thompson this morning, and they have identified a working strategy. He is moving forward with implementing forms for Orders of Conditions, Determination of Applicability, and Certificates of Compliance. These are the documents that are most frequently signed. A request has been made with the Registry to confirm that they will still accept electronic signatures. This may change soon with the expiration of the electronic meeting extension at the end of March.

### **Adjourn Meeting**

With no further business, on motion by Comm. Porter, seconded by Comm. Morse, the Commission voted unanimously to adjourn the meeting at 8:17 PM.