

RAIL TRAIL CONVERSION ADVISORY COMMITTEE
Town of Sudbury, Massachusetts
Minutes of Meeting on December 11, 2008

Present: Pat Brown (chair), Bob Hall, Jennifer Pincus, Nancy Powers, Dick Williamson, Carole Wolfe

Absent: Debbie Dineen (ex officio), Betty Foley, Madeleine Gelson, Bridget Hanson, Bill Place (ex officio), Eric Poch

Also Present: Residents Jim Nigrelli, Dan DePompei

Community Input:

Jim Nigrelli inquired about the status of the RTCAC referring to comments of the Selectman at their meeting on October 28 in which they indicated that the Committee might wish to suspend or reduce its activities because the BOS had requested the Town Planner (Jody Kablack), the Conservation Coordinator (Debbie Dineen) and the DPW Director (Bill Place) assume the task of furthering the work on the Bruce Freeman Rail Trail over the coming year. The chair responded that the Committee would be dealing with that question later in the meeting. It appeared to the Committee that the three town staff members were unlikely to get much done until after Town Meeting, which seemed at odds with the fact that the Bruce Freeman Rail Trail Uniformity Committee (BFRTCC) is presently trying to make decisions affecting all of the towns along the trail about various features they hope will be adopted by all the towns, in the near future for Phase 1 (Lowell to Chelmsford) which is under construction now.

Dan DePompei expressed his displeasure with the proceedings of the BOS meeting on October 28, which he conveyed to the selectmen in a letter about three weeks ago, a copy of which he made available at this meeting. He also stated, in response to a request, that he would forward an electronic copy of this e-mail to the RTCAC. The main point he wished to make was that in view of all the uncertainties in the roles of the RTCAC, town staff and the various funding agencies the town should invite all of the responsible parties at all levels of town government and state agencies to get together in Sudbury to make clear to our citizens and committees just how the process works in all its multiple aspects. He noted that he had not received a reply as yet from the selectmen except from selectman O'Brien's executive assistant saying he would respond in an appropriate way. He reiterated his concerns in his remarks at the end of this meeting. He added that he had seen the surveyors working on his property, about 200 feet onto it, having got there without permission. They did appear to have identified wetland boundaries and vernal pools having left marker flags of various colors.

The Meeting was convened at 7:40 P.M.

The Minutes of the October 23 Meeting were approved following one change.

Old Business:

Updates

Discussion of October 28 Meeting of the Board of Selectmen (BOS)

Pat noted that the meeting did little to encourage her that communication with the BOS and Town Manager would be much improved, referring to her exchange with selectman O'Brien and Maureen Valente concerning her efforts to determine the status of the three CPC studies. Mr.

O'Brien stated on October 28 that he had conveyed information to Pat over the phone in September that the survey and wetlands delineation was not complete and indicated that responding to email messages that refer to contracts could create a paper trail that would benefit someone the Town could be in litigation with. Pat clarified for the Committee that in September she had understood specifically that no litigation was in progress; consequently, she expected an answer to her messages. Town Manager Maureen Valente had stated at the October 28 BOS meeting that the Conservation Coordinator had informed the RTCAC about the status of the wildlife study at her (the Town Manager's) request; Pat said that the RTCAC had received no such communication. Rather, Pat had heard Director of Public Works Bill Place report the status on the wildlife study to Tom Michelman of the Bruce Freeman Uniformity Committee at the October 21 Uniformity Committee meeting held by Bill in Sudbury. The same lack of clarity exists concerning the title search. Dick Williamson noted that the BOS said at their meeting of the 28th that the purpose of the title search was primarily to give the town confidence that it was all right to proceed with the other two studies, not to provide full documentation on the present ownership. But that was not stated in Article 22 requesting funds for the title search at 2007 Sudbury Annual Town Meeting. The town still has no document other than Town Counsel's letter to the BOS that the search was adequate to go forward on the other studies. Carole Wolfe said that at the 25%-design hearing in Acton the state officials made it clear that the state requires a municipality to procure as part of the 25% design all necessary permanent and temporary easements and any required sub-lease agreements and a clear title in order for the 25% design to be reviewed and for obtaining a lease of the rail bed from the state. Each municipality is responsible for paying from its own funds the cost for securing all these legal requirements.. She asked whether Anderson and Krieger, the firm that performed the title search in Sudbury and serves as Town Counsel in Acton, would issue title insurance based upon the present results in the Sudbury search? Carole added that the BOS had led the town to believe at two town meetings that the town would get clear title to the ROW. *(Although this was not mentioned in this RTCAC meeting, it might in all fairness be noted that Maureen had said at the BOS meeting that if the decision is made to develop the trail and it is found that the title is not completely clear additional work can be done as part of the 25% design rather than spending additional funds now.)*

The discussion then turned to the status of the notebook and the role of the RTCAC in the immediate future. The selectmen asked if the Committee needed more time to finish the Notebook, as they had announced at the October meeting that three town staff members would be taking over the next phase of the town's work on the BFRT, as noted above. Pat noted that Larry O'Brien had asked whether the RTCAC thought it would be useful if the material in the notebook were presented to the town in a public meeting. He was in favor of doing that if the RTCAC thought it was; alternatively, he suggested the possibility of presenting it at some appropriate time to the new committee of town staff that will carry the work forward. Pat's comment about this was that the BOS has not acknowledged that the RTCAC still doesn't know what the Board wants. It was pointed out at this evening's meeting that the BOS did not write the Notebook plan; Dennis Mannone did. The selectmen's question about when the Notebook will be finished led Nancy Powers to say that she is not eager to put in more effort until the RTCAC learns from the town staff what additionally they might want. Pat said that Bridget Hanson who was not present had asked her to be sure that the material on the Nashua River Rail Trail, which is not yet complete, be included in the Notebook. Pat suggested that although the Notebook is obviously not yet complete it might not be necessary for the RTCAC to meet every month, an

idea that met with some enthusiasm. Carole Wolfe noted that Jody Kablack had told the Selectmen at their December 9th meeting that she would use the Committee as a sounding board. The Committee agreed that it would be very helpful to meet with Jody, and Pat will try to arrange such a meeting to include also Bill Place and Debbie Dineen, tentatively at the next meeting on January 22nd. Pat proposed that we wait until we have met with them before we decide how often the RTCAC should meet in the year ahead. Dick Williamson reiterated a point he had made to the selectmen that the Committee should make itself available to the BOS to help wherever it can. There was a consensus that the town staff was not likely to get down to serious work until after town meeting. They will need the final results of the three CPC studies and will have to finish their work for town meeting. Pat said that the RTCAC should find out if there is information the town staff would like to have that is not yet included in the Notebook. Moreover, the Committee can also inform them about things they ought to know.

Pat noted that she had emailed the charter for the Bruce Freeman Rail Trail Uniformity Committee (BFRTUC) to RTCAC members, the town manager and BOS. She asked if anyone knew when the next meeting of that committee is scheduled. Dick Williamson offered that he would try to find out from Tom Michelman, the chairman of the BFRTUC. Pat also asked who is to represent Sudbury on that committee. Maureen has indicated that Bill Place will represent the town and Jody Kablack will be an alternate. When the BFRTUC approves something, Bill will present the information to the BOS and the board will have to sign off on it. Carole said that Phase 1, under construction in Chelmsford, is being used in violation of the no-trespass signs that have been posted at various access points. She asked how effective signage along the trail might be in Sudbury when it is clear that people ignore such signs when they chose.

The RTCAC continues to have membership problems. Pat noted that Dennis Mannone has been taken off the membership list on the town website, but she was never informed about that removal. She has learned from other sources that Dennis is no longer employed by the town, but she had no other information about him. She suggested that Bill Place or Debbie Dineen, who are already ex officio members, might take Dennis's place, thereby improving communication between the "visioning committee" and the RTCAC. Jennifer Pincus suggested that Bill Debbie and Jody meet with us, alternatively, that RTCAC members attend their meetings. Pat concluded this discussion inquiring where the results of the survey of existing conditions, funded by article 24 at the 2007 town meeting, might be found. No one present could answer the question.

Other Communications:

Dick Williamson reported on several things he had learned at a meeting of the TPPC (Transportation Planning and Programming Committee) on October 16. The TIP (Transportation Improvement Program) priority list of projects considered for funding is supposed to be updated every year. The annual update of the TIP is to cover projects in that year and the next three years. The TIP for 2008 was never approved by the Federal Highway Administration (FHWA), so the Boston MPO continued to operate with the 2007 TIP through 2008. During the latter half of 2008, the 2007 TIP was amended to reflect recent changes in funding priorities and new rules from FHWA. There was a large change in the 2009-2010 portion of the 2007 TIP because the new rules applied only for the Boston MPO. FHWA stated that they would approve design funds for any project only if construction funding was included in the first 10 years of the Regional Transportation Plan (RTP), the "The Journey to 2030". One consequence was that the amended 2007 TIP deleted funding for the design of phase 2 of the Assabet River Rail Trail (ARRT) and for Phase 2a of the Bruce Freeman Rail Trail. The RTP is supposed to be updated every four

years which would schedule the next update for 2011. However, the new FHWA rules make it necessary to generate a new RTP during the first half of 2009. FHWA said that they will require that the RTP be “financially constrained”, i.e., it must reflect projected budget numbers from the state. In addition, FHWA now demands that they be part of the project management for any project whose cost is over \$10M. These special FHWA rulings for the Boston MPO may stem from all of the troubles related to the “Big Dig”. Nancy opined that with all of the uncertainties related to the funding of trails in this region there is very little information we can include in the Notebook about what the trail is likely to cost. Pat stated her observation that the town manager and BOS were misinformed about the TIP process, apparently thinking that projects qualify for funding based upon seniority rather than construction-readiness and transportation priority. She reminded the Committee that the RTCAC had suggested to the BOS at the June 24, 2008 BOS meeting that the Town request an overview of the funding process from the responsible agencies, and that the RTCAC had offered to arrange such a hearing. The Town Manager declined this offer and instead delegated Bill Place to arrange a meeting; nothing was ever done. Dick noted that there are a great many projects on the TIP earmarked for design, but not for construction, thus not likely to be built in the foreseeable future. Dick also noted that there are many projects on the TIP that may receive construction funding simply because they are ready to go. For projects whose costs are less than \$10m specific oversight by the FHWA is not required.

Carole requested that the last sentence in the response to the FAQ question, “How will disruption of wildlife along the trail be minimized?”, which states that specific studies indicated no harmful effects, be deleted until those studies are cited. Dick Williamson had offered to identify the studies that had formed the basis of the answer in the FAQ but had not had time to do so. The Committee agreed to drop this sentence until the studies have been identified.

Pat heard from Madeleine Gelsinon, liaison to the Agricultural Commission, that Paul Cavicchio had provided new numbers for the traffic that crosses the ROW which cuts through his property. Pat will ask Madeleine to bring them to the next meeting for discussion.

The disagreement between Carole and Dick regarding the importance of the Sudbury section of the BFRT has not been resolved. The question was tabled until the next meeting. Dick ventured that the Massachusetts State Bicycle Plan will not be the plan determining what gets built; the regional plan put forth by the Metropolitan Area Planning Council (MAPC) will govern priorities. Carole noted that the cost of Phase 2 in Concord and Sudbury alone is stated in the MAPC plan as being \$14 million two-hundred and fifty thousand, which makes sense, as just 2.5 miles in Concord are estimated at \$ 7 million for construction, not including the Concord Rotary in which the BFRT is a part. Pat reminded the RTCAC that the state and regional plans are contradictory. The regional plan, recommending \$14 million annual expenditure for off-road paths for the next twenty-five years, suggests that everything that can be built will be built. The state plan, authorizing no expenditures for construction of off-road paths for ten years beyond what is already in construction, indicates that no additional projects will be constructed. Dick offered that the Transportation Enhancements (TE) are 10% of the total federal transportation funds, but Massachusetts make the lowest use of all 52 states of the funds allotted it for enhancement projects. The unused TE funds do not go back to the FHWA but are retained for use by other projects in the Commonwealth. In recent years much or most of the funds used to build rail trails have come through the CMAQ program where unused funds do have to be returned to the federal government.

Submission of Items for the Notebook

Pat had circulated updates she had made for the history section. Her updates were approved by a unanimous vote after several minor changes were made.

Public Information on Other Trails:

No new information on any of the trails the Committee has been studying was presented. Pat emphasized Bridget's request for more information on the NRRT. Jennifer Pincus said that she and Nancy Powers would try to coordinate their efforts and report their progress at the next meeting. It was pointed out that there are several sections in the Notebook plan that have not been addressed, such as Parking and Bylaws. Dick pointed out that the parking solutions for phase one, which is under construction, are still being worked out, the point being that some aspects of parking problems are unique to the conditions in each town and get resolved on the fly. Jennifer again asked that the Committee contact the Visioning Committee to find out what they think is lacking. Pat added maintenance costs to the list she would like completed, and Carole noted that the costs of patrolling the trail have not been determined. Pat has learned that the town cannot provide information about the cost of maintaining an athletic field. It apparently has no interest in finding out.

Organizational Issues

The only business of this kind was to decide when the next meeting would take place. January 22, as noted above, is the time that Pat will submit to the Visioning Committee. She will confirm that date when she has received a reply. She will also request that Eric Poch submit the interview material he has obtained from Sudbury businesses.

The meeting was adjourned at 9:40 P.M.

Community Input

Dan DePompei voiced his opinion again that there seems to be a complete disconnect between local and state plans for the BFRT. This Committee had already discussed the issue that Sudbury was not in the state plan. He suggested again that the town invite all relevant parties at all levels of government to meet in Sudbury to inform Sudbury officials, committees, etc. about how to proceed. Dick pointed out that decisions about funding were not made by EOTPW. Carole noted that the 2008 Mass Bike Plan is the first to actually describe the routes of all the trails it was proposing be supported and thus is a real plan, fundamentally different from the 1998 plan, which did not have specific descriptions of actual trail routes and did not have the well defined 7 Greenways with all the routes that the current plan has. Dick noted, however, that the Mass Bike Plan of 1998 had little or no impact at all on subsequent trail developments.

Submitted by Bob Hall on December 17, 2008

Resubmitted on January 13, 2009

Approved January 22, 2009