

RAIL TRAIL CONVERSION ADVISORY COMMITTEE
Town of Sudbury, Massachusetts
Minutes of Meeting on May 28, 2009

Present: Pat Brown (chair), Madeleine Gelsinon, Bob Hall, Bridget Hanson, Nancy Powers, Dick Williamson, Carole Wolfe

Absent: Debbie Dineen (ex officio), Betty Foley, Jennifer Pincus, Bill Place (ex officio), Eric Poch

Also Present: Katie Blair, Jim Nigrelli

The Meeting was convened at 7:35 P.M.

Prior to accepting public input, the committee determined that Pat Brown would draft minutes for this session.

Community input: Katie Blair represents the Friends of White Pond in Concord. The organization, formed in 1983, believes the Bruce Freeman Rail Trail has the potential to affect White Pond, and is interested in observing the RTCAC to understand Sudbury's plans for the Bruce Freeman Rail Trail. The Town of Concord approved CPC funding at the 2009 Concord Town Meeting to advance the trail toward 75% design in Concord, but Concord's actions will be influenced by what Sudbury does.

Minutes: The March 13, 2009 minutes of the RTCAC were approved unanimously.

TIP (Transportation Improvement Plan) process: Pat reminded the RTCAC that they had received e-mail communication on January 27, confirming that the Town of Sudbury had submitted the Bruce Freeman Rail Trail as its number 1 transportation priority at Municipal TIP day in 2008.¹ This included forwarding to Town Planner Jody Kablack a copy of the PIF (Project Information Form) presented to the MPO for funding and indicating the community-defined priority for the project. Pat also reported that the 2007-2010 TIP (amendment 3) had been approved by the Boston MPO. This essentially defines TIP funding for the remainder of the 2009 (federal) fiscal year, and the Bruce Freeman Rail Trail was not included in this TIP. The draft 2009-2012 TIP, which will define spending during the 2010 fiscal year, is being formulated, and should be available for public comment during July. She reminded the committee of the notes distributed on March 1 to the RTCAC mailing list from the February 24 "TIP How-To" seminar held by Hayes Morrison, the TIP coordinator for the Boston MPO.

Dick Williamson had attended the second Municipal TIP Day for 2009 on May 28. (A first Municipal TIP Day was held on May 21.) Following an extensive presentation by advocates for the Tri-Community Path, Acton Selectman Peter Barry introduced Acton Town Planner Roland Bartl to present a request for two projects: the Assabet River Rail Trail (ARRT) and the Bruce Freeman Rail Trail (BFRT). Although Mr. Bartl made the primary presentation he was supported by a host of luminaries, including State Senator Jamie Eldridge, State Representative Cory Atkins, and other advocates. Sudbury Town Planner Jody Kablack and Sudbury Director of Public Works Bill Place were present.²

The Town of Sudbury did not present the projects submitted by the Town as transportation priorities to the MPO either on May 28 or on May 21. The Town had assigned the Bruce Freeman Rail Trail (EOT section) a priority of 3 among the five projects submitted for 2009, as the Town Planner had informed the RTCAC by e-mail on March 11. The RTCAC surmised that the Town might present the Town's proposed projects at a September "pre-25% design TIP Day" which was mentioned at the TIP How-To. The Town has not communicated to the RTCAC on this.

Dick Williamson reported that the Regional Transportation Plan for the Boston MPO (the "Journey to 2030") is being revised. This revision was started last spring (spring 2009) but will be continued this summer. Pat Brown had corresponded with Michael Chong from the FHWA (Federal Highway Administration) concerning the relative authority of the Massachusetts Bicycle Transportation Plan and the (Greater Boston) Regional Bicycle Plan. Mr. Chong indicated that neither of these carries weight with the FHWA because the plans are not fiscally constrained. The FHWA, which supplies 80% of transportation funds as federal matching funds, considers only the TIP and the regional transportation (not bicycle) plan. A project must be programmed for construction in one of those documents to receive federal matching funds.

Dick also mentioned that, as reported by the Massachusetts Bicycle and Pedestrian Advisory Board, EOT (the Massachusetts Executive Office of Transportation) had awarded a \$700,000 contract to the consulting firm Planners Collaborative to address the state's use of Transportation Enhancement funding. Massachusetts' failure to use enhancement funds was a topic in the news in the spring of 2009.

Official Events: The Town of Concord approved \$125,000 of CPA (Community Preservation Act) funding to advance toward the 75% design phase at the April 28 Concord Town Meeting. The Massachusetts Highway Department (Mass Highway) will hold the public hearing on the Concord 25% design on June 25 at the Concord Town House. The Town of Sudbury approved \$25,000 of CPA funds to be used for the creation of a concept plan for the corridor at the Sudbury Annual Town Meeting on May 11, 2009.

Status of CPC articles: Town Planner Jody Kablack had responded to the RTCAC by e-mail on May 26 concerning the CPC requests approved at Sudbury 2007 Annual Town Meeting. She indicated that the wildlife study (article 23) had been received by the Town in its completed form, and she would post the study on the Town website during that week. Jody also stated that the Town had not received the final survey (article 24), but that it would be available for public inspection when it was received.

Bridget Hanson noted that the wetlands delineation determined by the contractor for article 24 was their opinion only, and that it must be presented to the Conservation Commission (ConComm) for approval. The delineation as approved by ConComm is the official determination and is valid for three years from the time of its approval. The RFP for the Sudbury Bruce Freeman Rail Trail Existing Conditions Base Map, which defines this project, specifies that the Engineer will be expected to make a presentation at the hearing on the Abbreviated Notice of Resource Area Delineation (NRAD) before the Conservation Commission. A public hearing is required in this process, and no member of the RTCAC had

seen a public notice of this hearing. Bridget mentioned that most proponents of large projects request an NRAD hearing to be assured their wetlands delineation is acceptable to ConComm before they proceed with design. RTCAC currently has no member from ConComm, although this is specified in its charter, and does not know the status of the wetlands delineation. Bridget stated that she would ask Conservation Coordinator Debbie Dineen the status of the wetlands delineation, and whether an NRAD hearing has been requested.

Membership: Bridget said she would also request that ConComm designate a member to serve as RTCAC liaison. Two new members were appointed to ConComm in February 2009, restoring the body to full strength. While the Board of Selectmen (BOS) controls RTCAC membership, ConComm can select a member to present to the Board for appointment to RTCAC.

Dick Williamson said that Nancy McShea, the Director of Parks and Recreation that Sudbury shares with the Town of Wayland, will be holding a user group meeting in June for those who use Sudbury's recreational facilities. At this meeting, she will request volunteers to serve on the Park and Recreation Commission.³ While members of Park & Rec are normally elected, no one has been interested in running for this position. The RTCAC has been missing a member of this commission, who is required by the RTCAC charter, since March of 2005. A new member might consent to serve on RTCAC.

The RTCAC e-mail on May 15 to the BOS requesting that a ConComm liaison be appointed and that the new Park and Rec Director Nancy McShea be added to the RTCAC mailer was acknowledged, but no response from the BOS has been received. The Town Manager has stated by e-mail on January 20 that the Director of Park and Recreation, not the individual who occupies that post, is a member of the RTCAC.

CSX Acquisition: Pat Brown reviewed the status of the CSX right of way in Sudbury. The Town of Sudbury approved the acquisition of this land at 2008 Town Meeting, but the acquisition was not completed, partially because the Town had returned the drinking water protection grant.⁴ Pat had spoken with Catherine Hamilton of the Massachusetts Department of Environmental Protection and learned that the state declined to offer such a grant for acquisition of any land on which the federal government might exert a prior claim. A drinking water protection grant could be obtained only after all claims by the federal government were satisfied for the CSX railroad corridor. The Sudbury CPC did not approve a 2009 request that CPC funding for the CSX purchase be presented to Town Meeting.

Dick Williamson reported that Holliston had reached an agreement with CSX for a price on the CSX railroad corridor in that town, but he did not know whether money been approved for the purchase yet.

Mass Highway: Pat Brown reminded the RTCAC that notes from the February 5 meeting of the Bruce Freeman Rail Trail Committee of Mass Highway had been distributed to the RTCAC by e-mail on February 12. Town Planner Jody Kablack presented for the Town of Sudbury, and stated that the Town would not seek 25% design funding at 2009 Town Meeting, but that the Town would continue listing the project in the TIP.

The Bruce Freeman Rail Trail Uniformity Committee met on May 11 in Acton. Carole Wolfe and Pat Brown attended, and the minutes of that meeting were distributed to RTCAC by e-mail on May 25. Sudbury Town Staff did not attend the May 11 Uniformity Committee meeting, since Sudbury Town Meeting met later that same day. The minutes raised questions about whether the Uniformity Committee proceeded by building consensus or by taking votes; no one seemed to know. Members of the Uniformity Committee have no clear authority to impose decisions on other members, members seem quite willing to disagree, and there seems to be a lot of discussion without decision. The next Uniformity Committee meeting is planned for 5 pm on June 2 in Concord.

Concept Committee: The committee of Town Staff tasked with creating concept plans for the Bruce Freeman Rail Trail in Sudbury consists of Town Planner Jody Kablack, Director of Public Works Bill Place, and Conservation Coordinator Debbie Dineen. Madeleine Gelson had understood from Jody's statements at May 11 Town Meeting that meetings of this committee would be open to the public; however, these meetings are not open to the public—rather, Jody stated that public hearings on the concepts achieved by this committee will be held at some unspecified time.

Discussion of the Notebook: Bridget Hanson noted that no information has been added to the Notebook concerning the Nashua River Rail Trail (NRRT). Jennifer Pincus (not present) had previously collected information on this trail that she had been unable to write up; Pat Brown will request from Jennifer that she send this unassembled data to the RTCAC, and Bridget will work with Nancy Powers to collate it into final form. Bridget believes that maintenance costs are the most important part of this data. The Massachusetts Department of Conservation and Recreation (DCR) maintains the NRRT, although a number of members voiced the opinion that most DCR properties are not well maintained and the NRRT shared this failing. Local groups perform some of the chores for this trail, and others go undone. Dick Williamson stated that one town along the NRRT had paid to have murals painted on underpasses where graffiti was a problem, and then covered the murals with a non-stick transparent coating to deter further tagging. Pat Brown mentioned other items in the task list for the Notebook—user counts and modes, trail-related bylaws—which also had not been addressed yet. Although the RTCAC requested the Concept Committee at the January 22 RTCAC meeting to indicate items which should be included in the Notebook which were not in the task list, the RTCAC has had no response yet. RTCAC members are not eager to work on this document until they receive clarification on how it will be used and what information might be useful

Pat Brown had also forwarded to the RTCAC by e-mail on May 25 her observation that her input into the Sudbury Town Open Space and Recreation Plan from October 16, 2008, had not yet been incorporated, and that the Town still stated it would discuss lease options for the MBTA (east-west) rail corridor with the MBTA. DCR has leased the east-west right of way that runs through Sudbury from the MBTA for 99 years and is currently building the east-west trail. Town Planner Jody Kablack said she would include this information and was glad that Pat had caught the error in time to prevent its going to print.

Organizational matters: Pat Brown asked whether anyone else wanted to assume the position of chair; no takers. The RTCAC scheduled its next meeting for Thursday, September 24. Pat

Brown will ask the Concept Committee to attend this meeting to discuss the findings from the wildlife study (article 23, 2007 Town Meeting) and the centerline survey/wetlands delineation (article 24, 2007 Town Meeting.) Bridget mentioned that this would be an opportunity to discuss what information coming out of the wildlife study would help in designing a trail, which is not a question addressed by the contractor. She also offered that the RTCAC would be a good place for the Concept Committee to do a trial run of the presentation planned for the public hearing. Dick Williamson noted that the RTCAC has a great deal of expertise in this area and could clarify many issues, preventing mistakes and saving time and effort.

The meeting was adjourned at 8:45 P.M.

Public comment: Jim Nigrelli asked what the purpose of the RTCAC was, considering that the Town has assigned all trail related issues to Town Staff and the Town neither seeks advice nor responds to questions from the Committee. Pat Brown said that the RTCAC was mainly observing at this point, but that members had devoted over four years of service to the project. In order for Town Staff to tap the expertise of the RTCAC in creating a vision, the committee must continue to exist. The less frequent meeting schedule makes this easier. Dick Williamson noted that initially the RTCAC was given more authority than was granted in its charter—providing substantive input to the RFP for the preliminary engineering assessment finished in 2006, interviewing and evaluating the candidates, and recommending the short list. The RTCAC also provided draft proposals for the wildlife study and the survey CPC articles for 2007 Town Meeting. Following the 2007 Sudbury Town Meeting the Board of Selectmen restricted the RTCAC to the Notebook, a task not originally described in the charter.

Katie Blair stated that the Friends of White Pond produced a newsletter, and she would like to get a short write-up of Sudbury's view of the status of the rail trail project from the RTCAC. Pat Brown informed her that the Town Planner had told RTCAC by e-mail on May 8 that any written communication from RTCAC to the Friends of White Pond must be approved by Town Staff, as requested by the Town Manager Maureen Valente. Pat stated that she was uncomfortable having the RTCAC draft a statement that Town Staff could amend, and then having the statement perceived as a product of the Committee. Pat and the Committee preferred to let the Friends of White Pond gather their information from the public documents on the website. Dick Williamson pointed out that he had gotten the Sudbury update for the spring 2009 newsletter for the Friends of the Bruce Freeman Rail Trail from a summary provided by Town Planner Jody Kablack, and that Town Staff might be willing to contribute to this newsletter also.

Submitted by Pat Brown
May 30, 2009
Resubmitted June 17, 2009
Resubmitted Again September 22, 2009

¹ Town Planner Jody Kablack, who was not present at the May 28 meeting, indicated in a corrected draft of the May 28 minutes e-mailed June 18 that the Town had submitted the Bruce Freeman Rail Trail in 2008 as priority 3. Sudbury's PIF from 2008 sent to the RTCAC on January 27 is available here:

http://www.town.sudbury.ma.us/documents/dl/5181/3_Sudbury604532_PIF.pdf

² Town Planner Jody Kablack stated “Bill and I did not say anything. We were present to observe.

³ Town Manager Maureen Valente, who did not attend the May 28 meeting, indicated in e-mail June 18 that Nancy McShea would not ask for volunteers. The Town Manager stated in the e-mail that asking for volunteers would not be Ms. McShea’s job or in keeping with her responsibilities.

⁴ Town Planner Jody Kablack disputed the previous underlined statement. “This is not so. The drinking water grant expired on June 30, 2008, but the reason the acquisition is not complete is because we are still in negotiations. It has nothing to do with a federal government claim.” The e-mail exchange with Catherine Hamilton follows .

**From: "Sarafinas, Catherine (DEP)" <Catherine.Sarafinas@state.ma.us>
Date: June 19, 2009 11:03:41 AM EDT
To: <pathbrown34@comcast.net>
Cc: "Terry, David (DEP)" <David.Terry@state.ma.us>
Subject: RE: Question about the Massachusetts State Drinking Water Protection Grant program**

Pat, DEP was not aware of the potential federal claim on the land at the time the grant was awarded to the Town.

Sudbury turned down the grant award down due to the possibility of the land reverting to federal ownership. ↯Because this grant award requires matching funds, Sudbury did not want to risk expending Town funds on land that might be removed from their ownership.

I hope that clarifies this. If you have any questions feel free to call me - 617-556-1070

Catherine Hamilton

-----Original Message-----

**From: Director-DWP, Program (DEP)
Sent: Friday, June 19, 2009 9:39 AM
To: Sarafinas, Catherine (DEP)
Subject: FW: Question about the Massachusetts State Drinking Water Protection Grant program**

Please see me on this

-----Original Message-----

**From: Pat Brown [mailto:patbrown34@comcast.net]
Sent: Friday, June 19, 2009 7:52 AM
To: Director-DWP, Program (DEP)
Subject: Question about the Massachusetts State Drinking Water Protection Grant program**

Hello.

This is Pat Brown, a citizen of Sudbury, Massachusetts. I had spoken with Catherine Hamilton at MassDEP on March 31 concerning a \$247,350 EOEAA Drinking Water Grant to the Town of Sudbury which expired on June 30, 2008. I had understood from that phone call that Sudbury had returned the grant because the Commonwealth declined to offer such a grant for the acquisition of any land to which the federal government might exert a prior claim, and that the CSX railroad corridor in contemplation could be subject to a federal claim.

Could you please clarify if this is the case, and correct me if I have misunderstood?

Thank you.

Pat Brown
Sudbury