

RAIL TRAIL CONVERSION ADVISORY COMMITTEE
Town of Sudbury, Massachusetts
Minutes of Meeting on March 24, 2011
Sudbury DPW Building Conference Room
275 Old Lancaster Road

Present: Pat Brown (chair), Betty Foley, Madeleine Gelsinon, Bob Hall, Bridget Hanson, Jennifer Pincus, Eric Poch, Nancy Powers, Dick Williamson

Absent: Carole Wolfe

Also Present: Aaron Pincus and Caroline Luis (reporter for the Sudbury Patch)

The committee determined that Pat Brown would draft the minutes for this session.

Community Input: There was none at this time.

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

Minutes: The Minutes of the meeting on October 28, 2010 were approved unanimously.

Old Business

Joint Meeting with the Board of Selectmen November 3, 2010

At the November 3 BOS meeting, Town Planner Jody Kablack presented Town Staff's response to the six recommendations the RTCAC made to the Board of Selectmen. She e-mailed a copy of these responses to the RTCAC on November 4, 2010. The major outcome of the BOS meeting was that Town Staff (Town Planner Jody Kablack, Conservation Coordinator Debbie Dineen, and Director of Public Works Bill Place) will develop a concept plan describing the trail they believe is appropriate for Sudbury and will then meet with representatives of the Massachusetts Department of Transportation (MassDOT) to discuss whether MassDOT would grant a waiver from some or all of the Mass Highway design requirements to allow such a modified trail to use the right of way. The Board of Selectmen had listed getting public approval of a design for the trail as one of their 2011 goals, and Town Staff hoped to have the concept plan completed by the end of fiscal 2011 (June 30, 2011). Town staff did not expect to seek public input for the concept plan; rather, if MassDOT were willing to consider other design concepts than a straight Mass Highway design, Town Staff would then consider it appropriate to involve residents in more detailed planning. Pat had requested a status on the concept plan, and Jody replied by e-mail on March 17 that

no further work had been done on the concept plan. It seemed unlikely to the Committee that Town Staff would be able to complete a concept plan prior to the end of fiscal 2011, given the effort required for staff to prepare a budget and to prepare for Town Meeting in May. Pat suggested that it would be informative to see whether the BOS included the trail as a priority in its fiscal 2012 goals; Eric Poch said those goals had already been adopted and were posted on the BOS website. Trails were among the goals.

Status of CSX Negotiations

Negotiations with CSX for the southern portion of the north-south right of way (ROW) are ongoing; Pat presented a copy of the request for a six-month extension of negotiations with CSX to rail-bank the ROW submitted by the Town of Sudbury to the Surface Transportation Board (STB) in November 2010. Until the ROW is formally rail-banked or abandoned, it remains an inactive rail line as defined by the STB. Sudbury first requested rail-banking of the corridor in 2001, and has extended the negotiations at six month intervals ever since; the current request will expire in May 2011. If the negotiations are successful, the ROW is preserved intact and can be used for a trail unless and until it is required for rail service. A rail-banked ROW can be restored to active rail service with 90 days notice if a railroad receives permission from the STB to do so. If the negotiations are permitted to lapse or fail, the ROW becomes abandoned and can be sold as a unit or piecemeal by CSX to the highest bidder(s).

Pat also presented a copy of a letter from Massachusetts Department of Revenue (DOR) from March 19, 2009, indicating that Community Preservation Act (CPA) funds cannot be used to acquire rail-banked ROWs because the use of the property for recreation or open space cannot be guaranteed because the property might be reinstated as an active rail line. Dick Williamson mentioned that Town Planner Jody Kablack had requested an addition to the 2011 legislative effort to modify the CPA specifically to allow the use of CPA funds to require rail-banked ROWs; however the proposed legislation is the result of many delicate compromises and any change was deemed likely to unravel the entire package, so this request is unlikely to go forward.

Pat pointed out that the Town now had \$420,000 in CPA funding appropriated by 2010 Town Meeting for the purpose of purchasing the CSX corridor. This funding cannot be used for this purpose both because the \$420,000 purchase price had been rejected by CSX and because CPA money could not be used for the purchase. However, because no article reverting these funds had been proposed by the Community Preservation Committee (CPC) for 2011 Town Meeting, the funds are essentially unusable—they cannot be used by the CPC for the project for which

they had been appropriated nor have they been reverted to be used for anything else.

Dick suggested that the town could proceed by permitting the ROW to be abandoned and then purchasing the land outright, a use for which CPA funds is allowed. Eric stated that the Town had sought the segment extending north of Route 20 to the MBTA crossing for decades to construct an extension of Nobscot Road to Union Avenue, alleviating traffic problems on Route 20 by permitting direct north-south traffic. The ROW in that stretch is wide enough to permit a trail to run alongside the proposed road. Eric also pointed out that there were no direct abutters south of Route 20; the ROW is bordered by the Sudbury Water District and by wetlands, so there are no obvious competing bidders to challenge the Town in purchasing the abandoned ROW. Both Dick and Eric were definite that CSX railroad pays no taxes to the Town of Sudbury on this property; the nineteenth century railroad laws specifically forbid it. No one knew whether the Town of Sudbury needed to coordinate a lapse in the request for rail-banking with the Town of Framingham, which has also been negotiating for rail-banked status of the ROW extending south of Sudbury. The apparent consensus of Sudbury, Framingham, and CSX is to continue negotiations; the STB is currently willing to permit this to continue, although a decade of negotiations is more protracted than they would like. Dick pointed out that separate (not CPA) funding has been designated by the Town for purchase of the ROW from Route 20 to the MBTA crossing. CPA restrictions would not apply to this segment so the purchase could proceed if CSX were willing to split off this segment.

There was a lively discussion of the trail segment to the north of the CSX ROW, extending from the MBTA crossing to Old Lancaster Road. Eric mentioned the public safety concerns of the Planning Board with running the trail across Codjer Lane, a driveway that is the main entrance to Cavicchio Greenhouses. Wetlands complicate the alternatives of widening Union Avenue for bike lanes or running a walkway down Union Avenue and diverting the trail to the road through that stretch. The CSX purchase is necessary to avoid building a “trail to nowhere”—that is, simply dropping trail users at the southern end of the MassDOT corridor without legal access to any public facility.

Long Range Transportation Plan presentation by the Boston MPO, March 22, 2011

In response to an invitation from RTCAC, representatives from the Boston Metropolitan Planning Organization (MPO) presented an overview of the new draft Long Range Transportation Plan (LRTP) “Paths to a Sustainable Region” in Lower Town Hall at 7:30 P.M. on March 22. The Committee had hoped this would address one of its recommendations to the BOS: #2 The Town should invite

an expert, or experts, to come before the BOS to describe the complex and volatile funding process, or various aspects of it, and the design implications of the process in a public meeting or hearing. None of the Selectmen, unfortunately, was able to attend. However, SudburyTV broadcast and recorded the meeting, and the video will be posted online. Due to some technical difficulties, the presenters were forced to speak from printed handouts rather than projected slides; the content of the slides will be spliced into the video to make viewing more comprehensible. The talk focused on the process of creating the federally required plan, which should be available for public review this summer. A new component is the needs assessment, describing the existing transportation infrastructure and the most pressing problems in the greater Boston metropolitan region. Dick stated that the Federal Highway Administration (FHWA) requires that if money is programmed for design of a project then money must be programmed for construction. Because federal dollars are part of the funds for design of phases 2A (Acton) and 2C (Concord) of the Bruce Freeman Rail Trail, he understands that constitutes a requirement for programming the construction of those phases. The Regional Transportation Advisory Council (RTAC) will hold a meeting concerning the Transportation Enhancements (TE) program on April 13, which Dick will attend. He had heard that the current \$500,000 a year used by MassDOT for funding TE eligible projects was projected to increase to \$3.5 million. This is money held at the MassDOT level and not distributed for programming by the MPOs. The expanded program would match every \$2 spent by the MPOs on enhancements projects with \$1 from federal funds reserved at the MassDOT level. The Boston MPO website at bostonmpo.org contains extensive information on these programs. Pat particularly recommended the Transportation Improvement Program (TIP) Interactive Database, in which projects from any community in the MPO can be tracked. The TIP process is now done entirely online; there is no Municipal TIP Day in 2011.

Status of Concept Plan

As discussed above, Town Staff has done no further work on the concept plan since the November 3 2010 BOS meeting. The RTCAC is available to answer questions from Town Staff, but no questions have been asked.

New Business

Concord Wetlands Bylaw & Bylaw Regulations

At the joint meeting of RTCAC and the BOS on November 3, 2010, Conservation Coordinator Debbie Dineen suggested that it would be informative to see how the proposed trail in Concord was permitted under the Concord Wetlands Bylaw, to learn how much effect local bylaws have upon trail design and

construction. Pat discussed with Judy LaRocca of the Concord Rail Trail Advisory Committee how the Concord Wetlands Bylaw would influence Concord's trail design. A summary of this discussion was e-mailed to RTCAC on November 13, 2010. Specifically, the Concord Wetlands Bylaw, passed in 2009, states that the trail is not subject to the setback provision, a 25 foot "no disturb" zone around any wetland. In addition, the Concord Natural Resources Commission (NRC)—the equivalent of Sudbury's Conservation Commission—is allowed to waive compliance with their regulations when that waiver is necessary to accommodate an overriding public interest. This allows the NRC latitude when considering what trail design and construction specifics to permit.

Bridget Hanson stated that both the Commonwealth and Concord allow exceptions to the "no disturb" zone (or setback), but that Sudbury's Wetlands Administration Bylaws do not. She and Eric agreed that in Sudbury, Conservation Commission is usually sensitive specifically to the conservation implications of a proposed project, while the Planning Board champions other public interests including public safety and accessibility. Bridget believed that the Sudbury's Conservation Commission was unlikely to waive their interests, and that the situation here is very different from that in Concord.

Mass Highway Bruce Freeman meeting December 14, 2010

The Bruce Freeman Rail Trail Committee met at the District 4 Mass Highway office in Arlington in December. Pat e-mailed her unofficial summary of that meeting to the RTCAC on December 14, 2010. One highlight: MassDOT will fund the design of the "2B" phase of the proposed Bruce Freeman Rail Trail through the 25% design and public hearings. Phase 2B is the Route 2 crossing near the Concord Rotary in Concord. The 2B project was split out from the larger Route 2 Concord Rotary project in the summer of 2010. Dick stated that since December, the bridge alternative had been selected: the trail will cross Route 2 over a bridge rather than crossing under Route 2 via a tunnel. A second highlight was the ROW access issues currently experienced in both Acton and Concord. Both towns have executed various right of way documents with MassDOT (the ROW owner) to permit personnel access to the line, but these were time limited and have lapsed. Pat will verify that RTCAC members have a negotiated right to access the corridor in Sudbury before scheduling any more trail walks.

Dick mentioned that ROW issues with MassDOT are common; the lease of the ROW in Chelmsford where the trail opened in August of 2009 is still not complete. He stated that MassDOT cannot turn the trail over to the Town of Chelmsford until Mass Highway certifies the construction is complete, which Mass Highway has not yet done. Pat asked whether a requirement for approval from Mass Highway didn't explicitly require that Mass Highway build the trail in order to obtain a lease

from MassDOT. The consensus was that RTCAC led by Bridget should bring before Conservation Commission a proposal for a Mass Highway style trail and see whether that was acceptable or what modifications would be required for Conservation Commission to issue the permit(s). Additionally, the concept plan developed by Town Staff would allow both a discussion with MassDOT about acceptable uses of the ROW and a consideration of various modifications to identify and resolve conflicts with trail design as voted in Article #42 at 2010 Town Meeting. Both efforts are valuable.

Mass Central Corridor Lease December 30, 2010

Dick had sent to RTCAC by e-mail on February 9, 2011 a copy of both the signed document leasing the east-west Mass Central corridor from Waltham to Berlin through Sudbury from the MBTA to Department of Conservation and Recreation (DCR). He had also included a scan of the original railroad valuation maps for this corridor. The east-west ROW is specifically outside the charter of the RTCAC, but the lease does open the corridor for conversion to a trail by DCR. However, the value of the Bruce Freeman Rail Trail would be significantly enhanced if it connected to the Mass. Central Rail Trail.

Organizational Matters

Conflict of interest law; ethics update

Pat reminded the Committee of the conflict of interest law and ethics update sent by the Town Clerk this spring. Since this is the “off year” of a two-year testing cycle, no specific action is required until 2012 other than being aware of these requirements.

Membership issue

Sudbury Town Bylaws Article III Section 8 requires that any committee member absent for more than five consecutive meetings be replaced. Eric had not been present at a RTCAC meeting since July of 2008. However, he was present at this meeting and indicated a desire to continue serving on the Committee.

Date of next meeting

There will be a **brief** meeting at 7:00 P.M. on May 2, 2011 at Lincoln Sudbury Regional High School prior to Town Meeting to approve the minutes of this (March 24) meeting for posting.

The next business meeting will be held on September 22, 2011.

Proposed Agenda Items

None.

The Meeting was adjourned at 8:50 P.M.

Community Input

None. Carolyn Luis from Sudbury Patch aligned our names with the photo she had taken.

Respectfully submitted by Pat Brown March 26, 2011

Resubmitted by Pat Brown March 30, 2011

Approved May 2, 2011