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# TOWN OF BURLINGTON

## *Meeting Minutes*

Email minutes to [meetings@burlington.org](mailto:meetings@burlington.org) or Bring to the Clerk's Office. Thank you

Minutes need to be posted within 30 days or 2 meetings of the board – Draft minutes can be posted and revised at a later date

BOARD: Conservation Commission

DATE: January 27, 2022

TIME: 7:00 PM

PLACE: WebEx Remote Meeting

MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Gail Lima, Ed LoTurco, Indra Deb and Kent Moffat

MEMBER MISSING: Donald Bernstein and Jennifer O'Riorden

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### **1. Call to Order**

Pursuant to Governor Baker's June 15, 2021 lifting of the State of Emergency and following the passing of Chapter 20 of the Acts of 2021, which allows remote meetings of public bodies until April 1, 2022, this meeting of the Town of Burlington Conservation Commission is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by tuning into the BCAT Government Cable Access Channel, the BCAT Government Meetings Facebook Live feed, or you can join the meeting over the phone @ 408-418-9388 Meeting #2339 05480 3469, the password if needed is uPpyy3p5uA7. To join the WebEx live video conference, click on the link on the Conservation Commission's meetings page or on the Town of Burlington Town calendar or go to Webex.com, join a meeting.

Mr. Cohen called the meeting to order at 7:01 PM. On a Roll Call, Mr. Deb voted Present, Mr. LoTurco voted Present, Ms. Lima voted Present, Mr. Moffat voted Present, and Mr. Boivin voted Present. Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also present.

New public hearings opened tonight will not be closed, so as to allow comments from those who are unable to access or are uncomfortable with the technology. Comments or concerns regarding public hearings should be emailed to [conservation@burlington.org](mailto:conservation@burlington.org) before the next meeting on February 10, 2022.

The meeting is being recorded on BCAT as well as WebEx.

Mr. Cohen stated that the applicants for agenda item #6 and #7 are requesting a continuance.



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**6. Continued Public Hearing – Notice of Intent – 102R Winn Street – Sung Ok & In Ho Lee – Replace Culvert & Restore Wetlands/Stream Bank – DEP #122-666**

**MOTION** - Mr. LoTurco made a motion to continue the public hearing for 102R Winn Street, DEP #122-666 until February 10, 2022. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**7. Continued Public Hearing – Notice of Intent – 14 Spring Valley Road – Michael Casey – Construct Garage – DEP #122-667**

**MOTION** - Ms. Lima made a motion to continue the Notice of Intent for 14 Spring Valley Road, DEP #122-667 until February 10, 2022. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**2. Citizens' Time**

There were no citizens coming forward.

**3. Approval of Minutes – January 13, 2022**

There were no minutes to approve.

Mr. Deb stated that for the record, he watched the last meeting and is up to date on all items. Mr. Cohen also stated that for the record he watched the previous meeting and is up to date on all items.

**4. Request for Determination of Applicability**

**4a. 64A Middlesex Turnpike – NSTAR Electric Company dba Eversource Energy – Expansion and Upgrade of an Existing Electric Substation (continued from 1/13/22)**

Jessica Roberts and Tim Grace from Tighe and Bond and David Hallowell from National Grid appeared for the continued Request for Determination of Applicability. The project was presented at the last meeting. There is an isolated wetland and some of the work will be within the 100' buffer but no work will be within the 20' no disturb zone. They are also proposing a bioretention basin. The Planning Board has asked the Applicant to add additional screening, an 8' stockade fence with no barbed wire, and to plant seed mix and silky dogwoods on the slope with tall grass and plantings around the site.

Mr. Keeley stated that staff went out to the site and viewed it from outside of the fence. The wetlands seep on the side of a steep hill, and the wetland is not connected to any other resource area and it is upgradient of the proposed work.

The Conservation Commission discussed/questioned:

- How are transfers of equipment to this site done?
- Who monitors the plantings?





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- The plantings should all be native.
- An inspection should be done after the plantings.

The applicant/staff responded:

- They are still looking at the access to the site. They are planning on bringing in equipment to the rear of the substation but they are still working with the other property owners.
- The Planning Board has requested the plantings and they will be part of their decision and be part of the Operations Manual that will be submitted.
- The plants will all be native and having that as a condition is acceptable.

**MOTION** - Mr. LoTurco made a motion to approve the negative Determination of Application for 64A Middlesex Turnpike – NSTAR Electric Company dba Eversource Energy – Expansion and Upgrade of an Existing Electric Substation under Burlington Bylaw Article 14 as amended. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**5. Continued Public Hearing – Notice of Intent (Burlington Wetland Bylaw only) – 9 Carey Avenue – 9 Carey Ave, LLC – Demolish Dwelling & Construct New Dwelling**

Rich Kirby of LEC Environmental and Thamara Martins appeared for a continued Notice of Intent for 9 Carey Ave. Mr. Kirby stated that a revised plan was submitted. They have changed the driveway to porous pavers in the driveway and they will add a trench along the driveway. They will also have porous pavers on the walkway. They are proposing post & rail fence along the 20' offset from the wetland. They are proposing installing 10 shrubs and 950 herbaceous plugs. The Operations & Maintenance Manual has been updated to reflect the changes.

Mr. Keeley stated that all the outstanding issues were addressed.

The Conservation Commission discussed/questioned:

- With only a portion of the roof runoff going to the porous pavement, what happens with the other half of the roof?
- Will the fence along the 20' be straight or follow the line?

The applicant/staff responded:

- Water will fan out down the downspout near the stone trench.
- They will work with staff to determine the location of the fence.

There were no questions from the audience.





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**MOTION** - Mr. Boivin made a motion to close the public hearing for the Notice of Intent for 9 Carey Avenue. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to approve the findings for 9 Carey Avenue under the Burlington Wetlands Bylaw Article 14 as amended. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to issue the Order of Conditions for 9 Carey Avenue under the Burlington Wetlands Bylaw Article 14 as amended. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Boivin made a motion to require a \$2,500 cash surety for 9 Carey Avenue. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

8. **Continued Public Hearing – Notice of Intent – Redmond Street Roadway – Somerset Realty Trust – Construct New Road with Stream Crossing – DEP #122-646**
9. **Continued Public Hearing – Notice of Intent – 4 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-645**
10. **Continued Public Hearing – Notice of Intent – 5 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-644**

Mary Trudeau, David Romero and Phyllis Etsell appeared for the continued public hearing for Redmond Street. Ms. Etsell stated that the Planning Board approved the subdivision on January 6<sup>th</sup>. There will be a 20' paved roadway to service 2 buildable lots. The remainder of Redmond Street will be deeded to the Town of Burlington. Ms. Trudeau stated that there will be 1 to 1 replication; 4,700 SF of disturbance and 4,800 SF of replication, both replication areas on Lot 4. The cul-de-sac will be the first thing constructed after the erosion controls are in place. In addition to the replication, they are donating 1.7 acres of land, providing an aggregate of 10 acres of open space belonging to the Commission in this area. Mr. Romero stated that the drainage is the same as the original plan. There is a Stormceptor to an underground infiltration system. The roof on Lot 4 will have a dry well system. The basement is 2' above the ground water.

Mr. Keeley stated that this was filed under a limited project. The wetlands regulations require 2 to 1 replication but the applicants are offering the 1.7-acre parcel as compensation for only having a 1:1 tree replacement.

. The homeowner's association will be responsible for infiltration of the system.

The Conservation Commission discussed/questioned:

- With this being a limited project, are there any requirements for size of the wetlands.
- Who determines if this is a limited project?





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- What will happen to the area that the abutter had intruding fill where the retaining wall is located.
- The house on Lot 4 seems to be located within the 40' no build zone after the replication.
- Will there be sump pumps and water proofing of the foundation.
- The wetlands are shown at 140' to 148' but the basements are at 142' and 144', so the basements are below the water table so sump pumps are needed.
- Is a 401 water quality report needed?
- How often will the infiltration system be maintained?
- Are there one or two wetlands on this site?
- Is the 1.7 acres land a valuable donation and could a trail be put on it?
- The plans should be updated to show the replication area and the ground water and surface elevations should be added.
- Will there be any fences at the 20' no-disturb line?
- Will there be inspections of the drainage system?
- Will the retaining walls fall under the jurisdiction of the DPW?

The applicant/staff responded:

- The Commission determines if it is a limited project but this is under 5,000 SF of disturbance.
- They will grade that area of fill as much as they can.
- The house is close and could be actually within the 40' no build zone. It could be moved or the wetlands can be reshaped. That could be part of a condition.
- Sump pumps are not shown on the plans but there will be a foundation drain.
- They don't believe sump pumps are necessary and they do not want to put them on the plan. They do not fall under the Conservation purview.
- A 401 report is not needed because it is under 5,000 SF.
- The regular catch basins will be cleaned 4 times a year. The Stormceptor should be cleaned twice a year. When the Town accepts the street, the Town will maintain everything in the roadway so they will follow the Operations Manual. The homeowner association will maintain the drainage system on private property.
- The applicant will establish a fund for the homeowner's association to maintain the drainage structure for 5 years after the final approval from the Planning Board. Under the Town's MS4 permit, the Town is required to clean catch basins.





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- There are two separate wetlands but both wetlands flow in the same direction.
- The 1.7-acre parcel has a lot of wetlands so a trail may not be feasible but they can cut down some brush and prickers by hand to see if a path is feasible.
- There will be a fence installed at the 20' no-disturb line at the edge of the replicated wetlands.
- The stormwater features will be inspected in the spring and in the fall.
- The DPW will maintain the walls once the road is accepted.

Mr. Cohen stated that the following should be added: house of lot 4 must be at least 40' from the replicated wetlands; a sign should be added at #50 that no salt is allowed past that point; a dewatering plan is required to be submitted prior to construction.

**MOTION** - Ms. Lima made a motion to close the public hearing for the Notice of Intent for the Redmond Street roadway, DEP #122-646. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to close the public hearing for the Notice of Intent for 4 Redmond Street, DEP #122-645. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Ms. Lima made a motion to close the public hearing for the Notice of Intent for 5 Redmond Street, DEP #122-644. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to waive the 2 to 1 replication ratio and require a 1 to 1 replication as well as the donation of the 1.7-acre parcel. The motion was seconded by Mr. Deb and voted 3-2-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted No, Mr. Deb voted Yes, Mr. Boivin voted No and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to adopt the findings for the Redmond Street Roadway, DEP #122-646 under Article 14 of the Burlington Wetlands Bylaw. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

Mr. Boivin stated that there is a lot of water on this site and he is not comfortable with the clearance for the ground water, the number of trees that will be cut, which is 28,000 SF of trees and shrubs. This parcel is a beautiful natural wetland and morally he cannot approve this application. His job is to enforce the bylaw as written but his conscience tells him no.

**MOTION** - Mr. Boivin made a motion to adopt the findings for the 4 Redmond Street, DEP #122-645 under Article 14 of the Burlington Wetlands Bylaw. The motion was seconded by Mr. LoTurco and unanimously





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voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Ms. Lima made a motion to adopt the findings for the 5 Redmond Street, DEP #122-644 under Article 14 of the Burlington Wetlands Bylaw. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to approve the order of conditions for the Redmond Street Roadway, DEP #122-646 under the State Wetlands Protection Act as amended. The motion was seconded by Mr. LoTurco and voted 3-1-1. On a roll call vote: Ms. Lima voted No, Mr. Deb voted Yes, Mr. Boivin abstained from voting, Mr. LoTurco voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to approve the order of conditions for the Redmond Street Roadway, DEP #122-646 under Article 14 of the Burlington Wetlands Bylaw as amended. The motion was seconded by Mr. LoTurco and voted 3-1-1. On a roll call vote: Ms. Lima voted No, Mr. Deb voted Yes, Mr. Boivin abstained from voting, Mr. LoTurco voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to approve the order of conditions for 4 Redmond Street, DEP #122-645 under the State Wetlands Protection Act as amended. The motion was seconded by Mr. LoTurco and voted 3-1-1. On a roll call vote: Ms. Lima voted No, Mr. Deb voted Yes, Mr. Boivin abstained from voting, Mr. LoTurco voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to approve the order of conditions for 4 Redmond Street Roadway, DEP #122-645 under Article 14 of the Burlington Wetlands Bylaw as amended. The motion was seconded by Mr. LoTurco and voted 3-1-1. On a roll call vote: Ms. Lima voted No, Mr. Deb voted Yes, Mr. Boivin abstained from voting, Mr. LoTurco voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to approve the order of conditions for 5 Redmond Street, DEP #122-644 under the State Wetlands Protection Act as amended. The motion was seconded by Mr. Deb and voted 3-1-1. On a roll call vote: Ms. Lima voted No, Mr. Deb voted Yes, Mr. Boivin abstained from voting, Mr. LoTurco voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to approve the order of conditions for 5 Redmond Street Roadway, DEP #122-644 under Article 14 of the Burlington Wetlands Bylaw as amended. The motion was seconded by Mr. Deb and voted 3-1-1. On a roll call vote: Ms. Lima voted No, Mr. Deb voted Yes, Mr. Boivin abstained from voting, Mr. LoTurco voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to require a \$15,000 cash surety for the Redmond Street Roadway, DEP #122-646; \$5,000 for 4 Redmond Street, DEP #122-645 and \$5,000 for 5 Redmond Street, DEP #122-655. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.





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**11. Discussion – 127 Bedford Street – Installation of Paver Blocks**

Maureen Herald from Norse Environmental appeared for the discussion of 127 Bedford Street. This site had a past enforcement order in 2020. They were notified in early January that paver patios were installed in front of the house outside the buffer zone but that the project was also permitted under the Erosion Control Bylaw. The landscaper reached out to the Town to see if this was ok but they did more than what was allowed. Ms. Coleman stated that the erosion controls were inspected and they discussed a patio but she did not think it would be that big but they paved the entire front of the lot. Ms. Herald stated that the site is not in compliance with the permit. This is the initial discussion. Mr. Keeley stated that he suggested a site visit before the next meeting. This is creating additional run off and we should discuss this at the next meeting. Ms. Herald stated that they can look at extra infiltration in that area. Ms. Lima asked if these are porous pavers. Mr. Keeley replied no. Ms. Lima stated that the whole front yard is now impervious.

*Kerrie Callahan of 125 Bedford Street* – Ms. Callahan stated that what is there now is nothing like what was approved. It was supposed to be grass in the front and there was supposed to be a trench down the driveway which there isn't. There is so much water and they are doing what ever they want. Mr. Cohen asked that a comparison plan be submitted on what is approved and what has been done. Ms. Herald replied that can be submitted.

**12 Update & Discussion – Proposed Revisions to Stormwater Bylaw**

Ms. Coleman stated that they will be meeting with the Board of Health to get the final comments. They also met with the Zoning Bylaw Review Committee to mention that was going to come in front of them. The main changes are that the thresholds have been lowered to capture small construction projects. The name of the bylaws has changed.

Mr. Boivin stated that the definitions are not in alphabetical order and he believes that they have input from the Planning Board not Board of Health. Ms. Coleman replied that was correct, the Board of Health have their own regulations.

Mr. Cohen asked if we could waive the requirement for stamped plans if we deem it is not necessary. Mr. Keeley stated that these are guidelines and there shouldn't be arbitrary decisions. If there is a waiver, they would need to justify it. Ms. Coleman stated that they will look at this. They will also look at the requirement for peer review.

Mr. Keeley stated that the public hearing will be at the next meeting.

**13. Administration**

**13a. Planning Board Comments**

There were no comments to the Planning Board.

**13b. Subcommittee & Staff Reports and Updates**

There were no subcommittee or staff reports.







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**13c. Other Business**

Ms. Lima stated that she sent a link to the recording regarding mosquito aerial spraying. We should get the Board of Health and State involved.

**13d. Upcoming Meetings –February 10, 2022 and February 24, 2022**

**14. Adjournment**

**MOTION** - Mr. Boivin made a motion to adjourn the January 27, 2022 Conservation Commission meeting at 10:05 PM. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn McDowell,  
Recording Clerk*

