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TOWN OF BURLINGTON

Meeting Minutes

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BOARD: Conservation Commission

DATE: February 24, 2022

TIME: 7:00 PM

PLACE: WebEx Remote Meeting

MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Gail Lima, Indra Deb and Jennifer O'Riorden

MEMBER MISSING: Ed LoTurco, Donald Bernstein, and Kent Moffat

Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also in attendance

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 5480 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 7:02 PM. On a Roll Call, Mr. Boivin voted Present, Ms. Lima voted Present, Mr. Deb voted Present, and Ms. O'Riorden 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 before the next meeting on March 10, 2022.

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

Mr. Cohen stated that the applicants for agenda item #8 is requesting a continuance.



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

2. Citizens’ Time

There were no citizens coming forward.

3. Approval of Minutes – January 27, 2022

MOTION - Ms. Lima made a motion to approve the Conservation Commission minutes of January 27, 2022 as amended by Mr. Boivin. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

4. Request for Certificate of Compliance

4a. 7 Wheeler Road – Wheeler Self Storage LLC – Bylaw Permit (DEP #122-604)

Mr. Cohen stated that there was a Superseding Order of Conditions by DEP and they have approved this.

Andrew Graves who was the principal architect appeared for the Certificate of Compliance request.

Mr. Keeley stated that a site visit was conducted and there are some plantings that will not survive and their roots are exposed. The flood plain restoration is very sandy. The applicant has provided an estimate cost to replace the vegetation. The Commission might want an additional bond and better soil. There is \$20,000 in the current bond. The property is being sold.

Mr. Graves stated that he agrees with Mr. Keeley and there is soil missing. They are proposing increasing the bond by \$10,000 to a total of \$30,000. The total cost of the replacement plantings is \$28,000. They will provide top soil as soon as they can. The nursery has a 1-year warranty so that will pay for most of the replacement plants. They would agree to a condition of the Certificate of Compliance. Mr. Keeley stated you can’t add a condition to the Certificate of Compliance, but it will be noted in the minutes and if not complied with an Enforcement Order will be issued.

The Conservation Commission discussed/questioned:

- Is the soil replacement cost in the additional bond and if so, it should be done before the property is sold?
- Will there be a temporary stabilization done for the plantings? If not, then the additional bond should be submitted before the property is sold.
- The new plantings would have to survive two planting seasons.





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The applicant/staff responded:

- There will be no work on the landscaping until spring.

MOTION - Ms. Lima made a motion to require an additional \$10,000 surety bond for planting replacement and additional soils for a total of \$30,000. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to issue the Certificate of Compliance for 7 Wheeler Road, DEP #122-604 with the note that the owner understands that additional top soil is required and replacement plantings are required to live for 2 growing seasons. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

5. Continued Public Hearing – Stormwater/Erosion & Sedimentation Control Bylaw Application – 22 Sears Street (Burlington Public Library) – Town of Burlington – Reconstruct Parking Lot

Tom Hayes from the Burlington DPW appeared for the continued Stormwater/Erosion & Sedimentation Control Permit for 22 Sears Street. Mr. Hayes stated that the plans have been updated to add a stormceptor and tree box well. All the catch basins have been updated to be deep sump catch basins.

There were no questions from the audience.

MOTION - Mr. Boivin made a motion to close the public hearing for 22 Sears Street. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to issue a Stormwater/Erosion and Sedimentation Control Bylaw Permit for 22 Sears Street under Burlington Bylaw Article 14, Section 6. The motion was seconded by Ms. O’Riorden and voted 4-0-1. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb abstained from voting, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

6. Continued Public Hearing – Notice of Intent – 25 Blanchard Road (Mary Cummings Park) – Trustees of Reservations, Inc. – Install Flow Device in Beaver Dam – DEP #122-Pending

Jared Bowers from the Trustees appeared for the continued Notice of Intent at 25 Blanchard Road. Mr. Bowers stated that there has been increased beaver activities in the park so they have partnered with Beaver Solutions to install a Beaver Deceiver. This will be done by hand and will only take 1 day.

Mr. Keeley stated a site visit took place on Wednesday and they walked around neighboring properties. This device is a good solution. This is not going to be done until April and DEP has not issued the number yet so we can’t close the hearing.

Deborah Baer of 27 Eugene Road – Ms. Baer thanked the Commission for coming out and she is hoping this will help.





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Dave Webb of 23 Eugene Road – Mr. Webb also thanked the Commission and asked if this project will be delayed because a DEP file number is not issued. Mr. Boivin stated that if they are not starting until April, we will be meeting on March 10th so it should not delay this.

MOTION - Ms. Lima made a motion to continue the Notice of Intent for 25 Blanchard Road until March 10, 2022. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

7. Continued Public Hearing – Notice of Intent – 34 Cambridge Street – EDENS – Install Walk-In Freezer at Rear of Store – DEP #122-668

Tim Hayes from Bohler Engineering, Katie Drenka of Mom’s Organic Market and Ben Davis from EDENS appeared for the continued Notice of Intent for 34 Cambridge Street. Mr. Hayes stated that they read the Order of Conditions and have no problem with any of it.

Mr. Cohen stated that during the site visit, there was some trash and the applicant agreed to pick it up in the spring. Mr. Hayes stated that they have committed to doing that.

There were no questions from the audience.

MOTION - Mr. Boivin made a motion to close the Notice of Intent for 34 Cambridge Street, DEP #122-668. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to approve the findings under Burlington Bylaw Article 14 and the State Wetlands Protection Act for 34 Cambridge Street, DEP #122-668. The motion was seconded by Mr. Boivin and unanimously voted 4-0-1. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb abstained from voting, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to approve the order of conditions under Burlington Bylaw Article 14 and the State Wetlands Protection Act for 34 Cambridge Street, DEP #122-668. The motion was seconded by Mr. Boivin and unanimously voted 4-0-1. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb abstained from voting, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to require a \$2,000 bond under Burlington Bylaw Article 14 for 34 Cambridge Street, DEP #122-668. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

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

Mike Casey appeared for the continued Notice of Intent for 14 Spring Valley Road. Mr. Casey stated that he can’t make the garage have unrestricted flow, so he is now working on plans to do a 30’ x 30’ car port with rooms above on 18” x 18” pillars. The plans are being updated to include compensatory storage. He will also be proposing gates around the car port for security.





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Mr. Keeley stated that flood vents do not meet unrestricted flow status as required by Mass DEP. The carport is going in the right direction because pillars do not restrict flow. The mitigation for the footings will be minimal. Mr. Boivin stated that runoff would still need to be addressed.

There were no questions from the audience.

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

10. Continued Public Hearing – Proposed Revisions to Stormwater Management Bylaw (General Bylaws, Article XIV, Section 6)

Mr. Cohen read a statement explaining the proposed changes to this bylaw and the reasons why. One of the major changes is to lower the threshold of land disturbance and additional impervious pavement to prevent storm water causing problems on other people’s property. We also may require additional trees. The bylaw has been in place for 15 years and we never used the provision that required a peer review. We have seen over the years increase of flooding on neighbors’ properties near construction projects that fall under the current threshold.

Mr. Keeley stated that the Stormwater Bylaw is separate from the Wetlands Bylaw. If a project is near wetlands, then the permits can be combined.

Susan Kadilak of 186 Mill Street – Ms. Kadilak stated that this would apply to all properties not just wetlands. MS4 deals with 1 acre so this is specific to Burlington and not requirements under MS4. These changes would include a patio, driveways, gazebos. She has questions: where did the lower sf numbers come from? What are the expected costs to the homeowner? What is the added time? Was there any attempt to look at other avenues? Were engineering firms involved in the development of this? Were pre-inspections with pictures considered? This is going to be an enormous burden and will open it up to more neighbor complaints.

Mr. Boivin stated that the main reason for the lower threshold were the complaints that we have received from neighbors when increased impervious areas and cutting trees on abutting properties were causing flooding.

Ms. Lima stated that a pre-construction meeting could help during the initial construction phase but increased impervious surfaces is a long-term problem.

Ms. Coleman stated that they did look at other towns. Arlington has thresholds starting at 350 SF. The cost of engineering would be approximately \$3,000. For a simple project, the time should only be one meeting so it should not be a time impact. Having a meeting allows abutters to be notified. It’s good to get it out in the open before starting a project and in reality the Board of Health gets the neighborhood complaints more than we do.

Andrea Tracey of Scott Ave – Ms. Tracey stated that new condos were built behind her and now there is water.

John Tucci – Mr. Tucci stated that he had worked in construction in the past and catch basins were handled by the Building Department and Engineering departments. The process should be easier and should include Conservation.





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Mr. Keeley stated that if the Building Department is involved, that would require a zoning bylaw change. The Planning Board is holding a public hearing on a zoning change to require a 2' separation above the water table for new construction.

Mike Casey of 14 Spring Valley Road – Mr. Casey asked if builders could submit a proposal to have it reviewed. He also asked if the Town is going to be held responsible if they change the drainage system and flood someone's property.

Mr. Boivin stated that residents have said in the past the Town would regularly bring back hoes in and dredge rivers. The resident also asked if the Town could go back to dredging. Mr. Keeley stated that this is no longer allowed. Mr. Keeley stated that we are off topic and it is not legal to dredge rivers.

Barbara L'Heureux of 10 Woodside Lane and Planning Board Member – Ms. L'Heureux stated that the Planning Board hears from residents who have been flooded from construction near them and this is a common problem. We want to protect the residents and not just the homeowner who is building.

Sarah Sullivan, representing her mother on Fox Hill Road – Ms. Sullivan thanked the Commission and stated that this is greatly needed. Her mother's property was affected by exactly this issue and asked if the bylaw if approved could be retroactive. Mr. Cohen stated that he remembers that hearing before the Board of Health and he felt helpless. Mr. Keeley stated that it would not be retroactive.

James M. – James stated that the Building Department already has a Stormwater Erosion Control that is not being enforced so why create a new one. Mr. Keeley stated that the Building Department does not enforce the Stormwater Bylaw, we do. Ms. Coleman stated that the Conservation does enforce this. Mr. Keeley stated that a licensed PE determines how stormwater is handled.

Brenda Rappaport of 26 Freeport Drive and Chair of the Planning Board – Ms. Rappaport stated that she has received calls from residents affected by water due to construction. We need to take care of the water problem at the source. This will affect developers but they build houses and move on. We need to address this.

Ms. Kadilak stated that we need to look at what additional tools can be used and asked that they get some recommendations from outside engineering companies.

Ms. Lima stated that this is a draft and they want the input. Mr. Cohen agreed and asked that questions and suggested be submitted in writing to the Commission.

Mr. Keeley suggested having a subcommittee before the next meeting.

MOTION - Mr. Deb made a motion to continue the public hearing until March 10, 2022. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.





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11. Administration

11a. Planning Board Comments

There were no comments to the Planning Board.

11b. Subcommittee & Staff Reports and Updates

There were no subcommittee or staff reports.

11c. Other Business

Mr. Keeley asked if we wanted to resume in person meetings. Ms. Lima asked if they could be hybrid meetings. Mr. Keeley replied yes until July 15, 2022. Mr. Boivin asked if Commissioners could also be remote and vote. Mr. Keeley replied yes.

MOTION - Ms. Lima made a motion to resume in person meetings on March 10, 2022 with the hybrid option. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

11d. Upcoming Meetings –March 10, 2022 and March 24, 2022

12. Adjournment

MOTION - Ms. Lima made a motion to adjourn the February 24, 2022 Conservation Commission meeting at 9:45 PM. The motion was seconded by Mr. Deb and unanimously voted 5-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn McDowell,
Recording Clerk*

