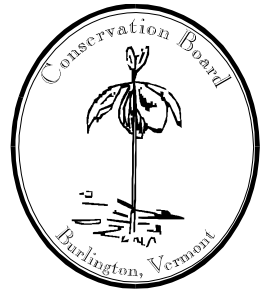


Burlington Conservation Board

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Matt Moore, Chair
Will Flender, Vice Chair
Scott Mapes
Don Meals
Jeff Severson
Miles Waite
Damon Lane Lane
Zoe Richards
Stephanie Young



Conservation Board Meeting Minutes

Monday, April 7, 2014 – 5:30 pm
Planning & Zoning Conference Room – City Hall Lower Level
149 Church Street

Attendance

- **Board Members:** Jeff Severson (JS), Miles Waite (MW), Don Meals (Don Meals), Damon Lane (DL), Stephanie Young (SY), Zoe Richards (ZR.)
- **Absent:** Scott Mapes (SM), Will Flender (WF)
- **Public:** Frank von Turkovich, April Moolaert, Karina Daily, Shane Mullen, Lee Sedden, Andy Robvogul, Kelli Brooks, Tom Papp (Keystone Development Corp. item)
- **Staff:** Mary O'Neil (Planning & Zoning), Megan Moir, Chapin Spencer (Public Works), Dan Cahill (Parks & Rec)

Don Meals, Acting Chair, called the meeting to order at 5:30 p.m.

Minutes of March 10, 2014

A MOTION was made by MW and SECONDED by ZR.

Correction noted by Miles Waite - Shane Mullen Mullen is repeated, P. 3 item 3. *Shane Mullen, Lee, Shane Mullen.*

Vote 4-0-2 (abstain Stephanie, Damon Lane.)

Board Comment

No board comment.

Public comment

No public comment.

Open Space Committee

See Discussion item 1 below.

Update and Discussion

1. Discussion of Arthur Park management plan

With Dan Cahill, Conservation Legacy Program

Dan Cahill – Fortunately, this won't be an action item. Gives update, based on last month's conversation. Ditto, field review. In this instance, using the acquisition fund for a management plan of this nature based on the objectives would it make sense. We don't need your approval to use the funds, but looking hard. About 80% - potential to leverage, field work, continue the work. Gives us an opportunity to get the work done.

ZR – Did you get proposals?

Dan- Yes, 2 responses. Only rec'd one full response that met all the criteria. Price tag \$6500 with the city supporting some of the GIS work.

J. Stevens – Is insurance required?

Dan- I wondered if anyone didn't submit based on that requirement.

JS – Light bulb went off that maybe that was the case. Slip and fall, negligent, sue.

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Dan – They have expressed they are ready to meet the requirements. Ask all the same questions. Probably a lot of people in the ballpark. We will look into it. It's going to come up again.

DM – Could you specifically look into this for the next meeting?

Dan – Yes.

ZR – Spread the work to lots of people – qualified to do it. Insurance thing can be sticky.

Dan – Great.

MW – Municipalities don't budge on that. Require insurance. As a private contractor, I sucked it up and did it. The people I was bidding against didn't question it.

Dan – In our best interests as well. We want good people working on it. All good things. This is my first management plan. I will have more to report next time. If anything comes up in the meantime, we can use email.

2. Discussion of potential LID pervious pavement zoning amendment

With Megan Moir, DPW Stormwater Program

Megan Moir- I tried to make revisions to the LID ordinance. Did not put in diagrams, but gave examples of diagrams. They work better in color. Guidance document. A better diagram will be more useful than one that is in black and white. I wanted to make sure to capture the wording correctly. I changed the bit about slope requirements. 5% or greater – the areas of the driveway 5% or greater, I make a decision. This is just moving forward for new driveways. I would like to take this to the Planning Commission next.

MW – Wording is good, diagrams helpful. Maybe the diagrams aren't suitable for the ordinance; but I like them available as a guidance document.

Megan – Particularly if you can't afford to do the whole thing – could do strip driveway, get yourself a bonus.

DM– In the statement – “In the regulation itself, the last line on the front page – “would qualify for a 25% reduction in calculated lot coverage...” it might be necessary to specify “the driveway portion.”

Megan – Make sure that the credit is not for all of your coverage.

DM – If a regulation, it needs to be spelled out.

DM – On the last page – the middle strip be a stable vegetative surface. Any guidance, or inspection.

Megan – It needs to be maintained as a grass strip. Given that it is linked to the credit manual, those credits are subject to inspection and can be revoked at any time. We would have to make it tight enough.

Megan - If a mud hole is discharging to the ROW- more enforceable. If bare ground and not discharging, hard to enforce. We don't want to be driveway police. But will start notifying people and enforcing upon the worst. Discharging sediment – we have authority under Chapter 26 for enforcement. If pervious pavement and no longer pervious, we would have cause for remedy. We should definitely clarify that.

MW – Does credit manual require inspections?

Megan – I need to revisit, recertify.

MW – Something you do?

Megan –I would require that they do. Engineer would have to recertify. I would like to loosen the credit manual, and could be the stormwater designer, not me.

If they make me mad, I never forgive them.

[laughter]

MW- Move to recommend this be sent on to the Planning Commission with the revision/clarification noted.

JS – seconds.

Vote 6-0-0.

Don Meals – Go forth and pave.

[laughter]

ZR – On front porch forum – went to story map – very helpful!

Megan – Enviro-nerds! Hollywood driveways popping up.

3. Discussion of stormwater collaboration with Public Works

With Megan Moir & Chapin Spencer, Dept. of Public Works

Chapin Spencer – I admit I put up a Hollywood driveway before I knew I was supposed to. I was encouraged to come and make myself available. Now my 7th month on the job, and very much enjoying it. Sobering how much infrastructure we have and how little we have to maintain it. I am really here to listen and be accessible. I have an open office; respond to emails with a day or two. You all do very important work, and I want to help. A point of contact is Megan or Steve Roy. I am here to listen and respond to any questions you may have.

DM – Anyone want to channel for Scott Mapes?

[laughter]

Introductions.

DM – We see major impact proposals. Anything within the lakeshore buffer, wetlands, anything to do with open space, some things with parks, subdivision of property.

Chapin – And these are things you advise on?

DM – Yes, send recommendations to Development Review Board. In the past, a problem, many times we see a developer and we look at the stormwater plan or erosion control plan and ask if everything has been reviewed and approved by DPW. Usually, they say yes. In the past, we don't know if it has been approved by public works. One of the areas we need to interface with DPW. LID is another.

Megan – I try to meet with people. I don't actually approve until they have met with you guys. There have been situations where I haven't even met with them. I wait until they come to see you. I will say "This is what I want", but make sure it jives with you so I don't go around your process. There are 2 separate channels – I have to finalize approvals for the DRB, and your process is advisory.

DM – We encourage people to go beyond minimum requirements.

MW – Engineers are all about no net increase in peak flow. What they don't think about is decrease the volume. Everybody has forgotten – we have an opportunity with development. Get the water in the ground before we even get the sources.

Megan – Green infrastructure technical grant – haven't heard yet. But meeting a certain target that we set.

ZR – If you can't do it on the site, mitigate somewhere else. A little more teeth.

Megan – I want to see that they have to do green infrastructure. Documented – we can't do it because x, y and z. Firm backstops. If it is not physically possible for full infiltration, the city will have money to do it somewhere else. Trying to formalize that, so everybody is taking the same amount out of the stormwater bucket.

DM – Focus on receiving areas – reducing the total flow to keep it out of the treatment plant.

Megan – Most densely developed areas – hard to grab a lot of volume. A lot of engineers are not comfortable with massive scale infiltration. But we want to harness those opportunities – find a different site with happy sandy soils. The net benefit to the plant is the same. So much of our review is site-by-site-by-site. Let's leverage that to get what we need to get done. If we don't get the grant, I will be trying to squirrel money into the budget to get things started.

ZR – grant?

Megan – Hired consultant, national.

SY – Do developers go to minimum? Do you press them?

Megan- I can't think of any time when I was severely disappointed. You have to manage 100% of new. Not their entire site. Some sites are doing 25-30%, and that's fine for them. I use you guys, say "conservation board will be demanding this." Put green infrastructure throughout the site.

JS – The mindset is "I know I can't do it." We need to think about that stuff for them.

Megan – Hard to say if something is right or wrong, if not written down. Operation clean-sweep. Some streets don't get swept because there is street parking. All that runs into the catch basins. Maybe work with DPW – post streets for one day, so sweeper can clean up. Just once a year.

DM – Inspection, compliance, after the advent of Chapter 26. How are your efforts going to monitor and keep track of those?

Megan – Until I hired stormwater tech (Greg Johnson), only responded on complaint basis. We are going out tomorrow to do inspections together. Having the additional entry critical.

ZR – Didn't we have another issue about how we measure overflow events from the treatment plant?

DL – Yes, specifically. What we counted and what we didn't.

Megan – I don't know if he has looked – everything at the wastewater treatment plant is heavily recorded. I want to go after CSOs at main plant, producing phosphorous. Get Steve Roy. He knows. Definitely gate openings were recorded. Wall of Shame, CSO's.

ZR – Something doesn't get recorded. Scott said.

Megan – Not as simple as a flow monitor. More complicated. On our radar; a piece of the puzzle. The state says you need this number of pounds. With the state, I have been encouraging them to provide maximum flexibility – not to get off – tell us how many pounds Burlington needs to move. Let us go through an integrated planning process.

DM – will they be receptive?

Megan – Dave Mears? Seemed so.

DM – Both MS4 and CS are part of that equation.

Megan – They have been releasing additional information about the Ts4? I may ask your help for help politically.

DM – That is a process that we would welcome.

Chapin – Dave Mears values the wonderful work that we do in house. The state doesn't have a lot of experts who can advise them. If this Board could take that role and advise Megan, we would appreciate that.

Megan – With a 240 page document, we could start a book club.

Megan – Door is always open.

Chapin – I will certainly acknowledge email.

SY – let us know if you hear from the EPA.

Megan – You are part of the stakeholders.

DM – Good work on the LID. Thank you.

DM – proposes to adjourn until 6:30 – waiting for the Chair to show up. DL 2nd.

Vote 6-0-0.

Reconvened 6:32 PM by DM. Gives notice – fixed amount of time for comment period.
Miles Waite recused.

Project Review

1. Continued review of Keystone Development Corp. Sec 248 Certificate of Public Good proposal for solar installation

0 Sunset Cliff Rd, in relation to potential solar utility installation

2. Continued review of Keystone Development Corp. VT Wetland Permit application for a solar installation

0 Sunset Cliff Rd, in relation to potential solar utility installation

Frank Von Turkovich – principal, South Forty Solar, LLC: Mentions agreement with BED – needed to meet with CB prior to submitting our application to the PSB. Many questions went beyond purview of City Council, but we are happy to answer. Hopefully the information we have sent you will be sufficient for the Conservation Board to complete its review. Step back and take a look why we propose this project in the first place. Vacant land – costs us to maintain. Time to make the property more productive. This site was the subject of several different proposals – one fully permitted but not constructed. The best project may be for housing construction, but due to neighbor concerns, we starting looking at solar. We have had conversations with NPAs; reached out to neighbors. Rec'd unanimous approval from City Council. In 2012 Burlington adopted its Climate Action Plan. Even though in place for 2 years, seems to be outdated. Last week, the big United Nations report on climate came out. This climate change issue is accelerating. Cities like Burlington and others need to take concrete steps. It makes sense. It will provide enough power to serve 700 Burlington homes. Burlington needs to address where it is obtaining its energy. It falls within the purview of this board to help that discussion, consider that aspect. Someday this plan, if implemented, can change. It will be a relatively light footprint on this parcel of land. It can be moved. It can be removed. I am confident that we will probably remove these, and the land will remain in its natural state. The city can than consider what they want to do with it. We are conscious of the concerns of our neighbors at Strathmore. We believe we have brought forward plans that address their concern. To the extent we are able to address their concerns. We are here to ask for your support. We will provide the information you need; please look at the big picture, and send us forward with a positive recommendation.

Andy Robvogel: Referred to the narrative response to 60+ questions from the board and members of the public. Additionally there is a plan we have provided existing and proposed conditions.

[Matt Moore comes 6:40 pm]

There is a cover type map for the response that shows the amount of acreage that will be cleared to cut in each of the various wetland project types. There is a stormwater analysis report with numerous attachments. Not EPSC – but post construction issues.

Matt Moore – Let's set the table on timeline; focus in on what we need to do now, what we could do now, and what could come after. I spoke to Scott Gustin today, staff person for the board.

Comments will go to City Council for April 16th meeting. Comments need to be provided by April 9 (2 days) in a form we decide.

To the applicant – what is your schedule for submitting a petition?

Mr. Robvogul – there is no issue with the timing of the city's comments. We would give one week's notice prior to submitting a 248 application. Under the statute, the City's recommendations need to be submitted to the PSB no later than 7 days from the application. We said we will LET YOU KNOW when we file, so the city, if it chooses to, can submit comments. While the 45 notice period is soon to expire, we will not file our application the next day. I don't have a date now. We are willing to set a date so the city, within reason....if the city says "we want two months"....I'm not sure that's reasonable. We are willing to give sufficient time. File a week after that.

Matt Moore – 45 day period has started?

Mr. von Turkovich – yes – we can't do it before 45 days, but we can do it later.

Mr. Robvogul – If it expires on the 18th, we would not file on the 19th. Perhaps April 25th, a week after that. If the city chooses to submit its comments at the end of the 45 day period, it would not be too late.

Matt Moore – "No file by 4/25." City council on 4/16 could comment prior to that 45 day period? Could you help us understand this process? What is the significance of needing to have City Council accept our comments and act or not act, whatever they want to do, prior to the 45 day period?

Mr. Robvogul – I'm not sure what the CC has in mind. Under the statute, the notice goes to the Planning Commission of the city and region. Really directed at Planning Commission comments. It has evolved. Some selectboards have chosen to be involved. But intended for broader planning issues. Whether comments are submitted by either the Planning Commission or City Council, it is not the end of the story by any means. Cities or municipalities participate in a number of ways. There is a specific statutory role. I don't know what our City Council has in mind.

DM – our task, if not tonight, is not to render to the City Council or DRB approval or recommendations; but rather advise the CC if they should become a party to the 248 process, specifically now. And the wetland permit; specifically now.

Mr. Robvogul – I thought the purpose of your involvement was to advise the planning Commission, in their statutory role, as to whether to take part in the process.

DM – typically, we advise the DRB.

Mr. Robvogul – in Burlington, the DRB and Planning Commission are separate entities. Until we fire the 248 application, and the public service board establishes that process, there is no opportunity to establish themselves as participating parties. It makes more sense for you to play the advisory role; that the PC has received notice. The City Council could file comments as well within that 45 day period.

JS – I think we need to make comments to the City Council, specifically for wetlands.

Mr. Robvogul – not the process.

Matt Moore – reads from the city council document. You are on the hook to answer to us about stormwater.

Mr. Robvogul – that's not the process.

Matt Moore – I want to be true to the letter and to the intent. I don't think the CC is NOT interested in all of this. They understand the concern to the city. They didn't want to deal with this, didn't have the expertise. They want the applicant to address stormwater runoff and wetland buffer zones. It is implied that if they ask us to do something, they want to hear about it. I think we might be remiss to ignore a city council resolution. It involves us, regardless of who they are directing. It is not worded as well as it could have been.

Mr. Robvogul – I think it was worded advisedly. Remember, in front of the PPA. If you choose, as a board, to advise the CC, then that's your right. But the process is – we would come talk to you, address your questions, but the CC did not contemplate feedback. But the 45 day process was for Planning Commission to weigh in at an early stage. We will start the process again at application.

Matt Moore – one way to understand this before us; not thumbs up or thumbs down. What are the issues that you saw, issues addressed or not addressed, and leave it to the CC or planning commission however they have delegated to decide what they want to do.

DM – I would suggest that we use this time, with applicant and interested public, whether concerns have been addressed satisfactorily. Make some statement to that effect. Vote on that – whether it goes to DRB or pc.

MM – That could work. After this, you (the applicant) can communicate with the city and make your case whether you have satisfied this. It will be up to you. If we go through this list of questions, and have an idea if issues are addressed or not, we are free to act how we want. We are an advisory board. The CC or Planning Commission can listen to us or not. We are used to that.

ZR – we need to decide whether to comment on the wetland portion of the review.

DM – Personally, stepping through this one question at a time would be tedious, long. But all the people that proposed these questions are not here.

Jeff Severson – I would suggest there is a difference between satisfactorily answering the question, and agreeing to the answer. There may be a disagreement if that is the correct answer.

Matt Moore – Any other thoughts? How to proceed?

Mr. Robvogul – Going through every question, would take more than tonight. I would suggest that if you have any questions about the answers, let those people ask us questions. Open the floor.

Matt Moore – We got these a week ago. I am presuming that you (the board) have read it. For example, does anyone have any issues with the response to #1

Jeff Severson – in response to 248 or wetlands?

Matt Moore – They are intermixed.

Jeff Severson – I disagree.

Matt Moore – What is it?

Jeff Severson – I have one question for the applicant. Was the wetland application amended or updated with anything you supplied to the board?

Frank von Turkovich – Yes. I spoke to Laura Lapiere. All new materials would be posted and extend the comment date.

DM – Couple of reactions, further questions on some of these. Who stapled this document backwards? [laughter]

On #25, ZR asked about clearing shrubs. The response was: The area shrubs will shift toward herbaceous species. To your consultants – what are the consequences of that kind of shift?

April Moolaert – Less shrubs growing in the field – as a mowed field for a very long time. The on-going mowing of the field will not have an undue adverse effect. The area will revert. This is what will happen – It will turn from a wet meadow to a scrub shrub.

DM – P. 47 – I asked for additional justification of soil manipulation. What is the meaning of the response? How do you know that the soils have a diminished infiltration capacity? How do you know your plan will work?

Shane Mullen – The concept of curb numbers for runoff rates is a qualitative, not quantitative assessment. The basis for determining whether something is in good condition, fair condition is doing a percolation test. Determination of a curve number. Percolation test, 10 minutes per hour, that is number based.

Manipulation of the soils, my judgment that taking a look at the way conditions are, taking out the trees, adding fertilizer, is how I came to that conclusion.

DM – Question on vegetation management plan – brush and tree limbs not be removed from the site outside of the fenced area, but left in place. Could you discuss the reasons for that decision?

April Moolaert – Recommendation from Eric Sorenson, Vt. Fish and Wildlife.

DM – Because?

April Moolaert – Wildlife habitat. Didn't go into specifics. Applicant agreed to do that.

Mr. Robvogul – Shrub management.

April Moolaert – Yes

ZR – Asks about vernal pool. How did you go about assessment?

April Moolaert - I live close to the site. Looking for egg masses.

ZR – What dates did you go?

April Moolaert – One other date at that time. May 15th.

ZR – Just a visual look?

April Moolaert – We netted too.

ZR – Wetland depressions on the northern part of the property.

April Moulaert – Topography.

ZR – Standing water? Did you check?

April Moulaert – No.

JS – Similar habitat on the other side, to the northwest of the road that forms the northwest boundary of your property.

April Moulaert – on the other side of the road. I have looked there. No vernal pools there.

ZR – One year of sampling is not sufficient to rule out salamanders. Your sampling is not sufficiently a determinate, or meaningful. You should look a couple of years. It is an active vernal pool. It has gotten little attention – it is a significant feature. They are important. They are the place that all species...colonies – they are afforded special protection. I would love to see your survey...there are pretty specific guidelines about protecting vernal pools, which I think you have taken quite likely.

April Moulaert – 200' from Strathmore's pool.

ZR – Not labeled.

April Moulaert – Quite compromised.

ZR – It's got a lot of land. There are frogs there.

JS – How much proposed?

ZR – 600 meters is recommended-

April Moulaert – Karina Daily did calculations. I believe it is 200'. I can check, provide you that information.

ZR – It may be low value, but not sure we have established that.

Mr. Robvogul – April and Karina have been acting with the guidance of the state.

ZR - They consulted with a basic question.

April Moulaert – State wetlands person consulted. Not considered significant.

SY – Question 13 – The pool itself would not be impacted?

April Moulaert – No. We went with Allan Quackenbush. They looked at the whole site.

ZR – They did not believe this was a vernal pool?

April Moulaert – They didn't comment. Part of a natural community.

JS – Put to scale, so we could measure off?

MM – Vernal pool is not proposed to be developed with the solar panels. On the edge of the buffer or actual wetland delineation.

ZR – Wood frogs will use the wetland to stay intact. The salamander will use the upland – it will remove the habitat for them. It would be nice to know that is not the case.

April Moulaert - Your concern is mole salamanders?

ZR – If you do have them, 600 meters is what the state recommends. Draw 600 meter buffer around that pond, you are going to get into that.

April Moulaert – Okay.

Mr. von Turkovich – 600 meters, and we don't have a project.

ZR – 600', not meters. Sorry.

JS- Put on plans?

Mr. von Turkovich – You have so many plans already. Are you telling me you can't tell from those plans? It was a horse race to answer all those questions.

ZR – This is our charge.

MM – I think this is about where it is (shows ZR.) There is an identifiable point on the wetland boundary. Because the upland is not wetland. The dark line on C1.01 – just off the tip of that point.

ZR – I want a little more care, a little more proof. A better serving process, what is really buffered.

MM – Forested wetland, bottom left corner. Is there any vegetation management proposed in that area.

April Moulaert – Nothing.

MM – The area around the vernal pool – I think we can tell right now what the buffer distance is.

JS – The vernal pool will be located within 100' of woody vegetation. I am asking for clarification. Some guidelines separate out the pool. In some guidance, measurement prescriptions. On a survey plan, you can ascertain how far from the vegetation.

MM – Status, category of vernal pool, significant vernal pool. Is there a different buffer for one that is not significant?

April Moulaert – Varies widely on the species.

MM – Guidelines?

April Moulaert – Yes.

DL – Question 6, effect on forested area. The answer does not get to that directly. Could you speak directly to the effect on neighboring properties by removing trees?

April Moulaert – 6 is looking at the wetland.

DL – Raised by neighbors, specifically addressed.

Shane Mullen – Stormwater management plan I put together contains 2 scenarios, conservatively modeled. Came up with a peak runoff rate associated with that. Ran a stormwater model with proposed clearing limits, ran a stormwater model with that. A slight decrease. Then I performed a sensitivity model, a more global look – meadow, pasture – broader range of possibilities. Based on that, found assuming things were in good condition, additional level of care – proposed shallow retention basin on upland side to capture that runoff and severely reduce the amount of water running.

DM – Focuses on peak. Does your model simulate those same things?

Shane Mullen – for the most part.

DM – Metric? How does that change?

Shane Mullen – Peak runoff rate shorthand to quantify whether there are impacts. Depends on the drainage system. For the smaller storms the runoff volume is mitigated...there is a slight increase in volume for a 25 year storm. By retaining water in a shallow depression, slight (maybe 10% or 20% volume) and releasing it over an extended period of time, maintains the capacity of that volume. For smaller stormwater events, reduction. For larger events, more volume, not an adverse effect on downstream structures.

MM – On phasing plan, curious how that was determined, what type of time frame, C5-01. C5-02?

Shane Mullen – In developing an EPSC, based on what I understand from Frank and Lee, the solar installer who the project would commence. These are not locked in stone. Basically, the phase guidelines provide a framework that there is an appropriate amount of ground open to accept rainwater. Project proceeds to the upland. It may make sense to drive the piles in the wetland before they move upland. Part of the state guidelines.

MM – In stormwater analysis, page 4. The following steps will be implemented, soil enhancement, to increase the “perviousness” of the soil. There are things the applicant/developer will do?

Mr. von Turkovich – yes.

DM – On third bullet, “where soil impaction has occurred.” How will you determine?

Shane Mullen – At the end of that segment – push rebar into the soil.

DM – You are going to walk all over the site?

Guy – Yes. Get a sense of compaction.

MM – Adjusted assumptions about infiltration state?

DM – Stump removal? My impression that stumps would not be removed.

Mr. von Turkovich – In the upland, they will be.

MM – Question 31, p. 9. Removal of 80-100 % of forest canopy and forest management area not included in the wetland calculation. Your answer – smaller than the application suggests.

April Moulaert – The estimates were done by the solar designers. He estimated 20%, limited tree cutting. We are still looking at this with the wetlands program.

Mr. von Turkovich – We are looking at the idea – we could build the project and have a definite understanding what trees would have shade – in layman’s terms, don’t cut them down until you determine they are bothersome. The other approach, survey work by foresters. We are relying on the work of our consultant, who has done a few of these projects. A much smaller impact that what we had originally talked about. Not settled yet – need to resolve with ANR.

MM – The area of the posts as a measurement of the square feet/impact of the wetlands. I noted 3 or 4 other projects where this methodology was accepted.

Mr. Robvogul – Examples?

April Moulaert – From the wetlands program.

MM – Do you have experience with other projects, Act 248?

April Moulaert – Not personally, as a method of calculating. That is for purposes for preparing the fee.

We did look at the entire site. The application is not just looking at X..... A permit fee issue. Separate from our professional opinion. We did this in consultation with the wetlands staff.

Mr. Robvogul – Do you meet the wetland rules? That is the task. For 248, are we meeting the wetland rules.

MM – Part of the criteria for the state.

Mr. Robvogul – if you can produce the permit.

JS- There are questions about vernal pool, about tree cutting, about canopy, about stormwater. Unanswered questions. I think we need more information.

DM – What other questions?

JS – I don't know if the stormwater model accurately portrays the conditions on the site. From the wetlands assessment, the applicant is to generate annual 10 year, 50 year and 100 year hydrographs and analyses. Section 5.1. under Storm runoff. Hydraulic analysis, average annual, 10 year, and 50 year ...in critical locations upstream and downstream. Your model does not appear to answer the stormwater events required.

Shane Mullen – I could easily produce 10 year, 50 year model.

JS – I need a better understanding of the wetlands piece. Does your modeling for the site adequately capture the modeling events who's analysis would satisfy the water storage function in the wetland.

Shane Mullen – We are not diverting any water from the site. Mass balance, water in, water out. We are not robbing the wetland of any water.

JS - That is one of questions I will look forward to getting more information about.

DM – Maybe Scott Mapes would have more questions about the guts of the model.

MM – to JS – your question about the hydrology model. Your impression is that they haven't followed the wetland rules prescribed for determining 10, 50, etc.

JS – Questions I would want answered by the consultant, and reviewed by those who have expertise for analysis. That same analysis or a portion of it to address an undue adverse impact.

DM – Wetland rule, interested in looking at entire hydrograph of entire event.

April Moulaert – Significance? We are saying it is significant.

JS –So then when your project is completed, will your site perform? Your model doesn't answer that.

Shane Mullen – detention basin, volume of water. Give you a flavor of the amount of water putting directly into the ground – overflow going directly back to the wetland. Not robbing the wetland.

JS – I haven't seen the new application. Have you revised the responses in the wetland application to reflect the new materials? This is all new material to me.

Mr. Robvogul – Given to DEC, will host them, given in the application. Watershed maps show the wetland that contains the rare natural community is in a different watershed. So that the changes in that area are not ...in a different hydrological regime.

April Moulaert – There is a divide there.

Open to the public 7:55 pm.

Sign in sheet passed around.

Tom Papp, president of Strathmore, adjacent to this property: I recommend you seek legal advice from City Attorney. This is very disquieting; to be fair and impartial. In terms of stormwater concerns, we need to make sure our stormwater system works. We have \$100 million in property. We are the most downstream from that watershed. A lot of things do not get covered by stormwater permits. Some stuff doesn't trigger stormwater permits – people add sheds, etc. Our engineers need to meet with their engineers to make sure these things work. We expect some information next week. We just recently received stormwater plans. Trying to get a handle on this. How viable the plans are. That is far from being resolved. Our position is the same as last meeting. We do not yet have enough information. Kelly Brooks, Strathmore assn. Discouraging that you are not supposed to advise anyone. CC did not send this to you without understanding that.

Miles Waite – consulting for Strathmore. I have reviewed, gotten into the guts. I am developing a list of questions for Shane Mullen to look at. A very well done effort; not back of the envelope kind of plan. They re-evaluated watershed, time, started from scratch. I have a few nit-picky questions, need clarification. Strathmore intends to develop questions before formalizing an opinion. Specifics of detention. Soil enhancement and detention basin – plan B. Get engineers together. There are some questions whether a permit will be required; need to be obtained prior to PSB decision, financial responsibility for constructing and maintaining a stormwater retaining system.

MM – I think I can ask the applicant any reasonable question to help us arrive at a decision. I am not seeking advice from another attorney.

DM – Point of clarification. This basin, (to Miles) is this purely a detention basin? An emergency stow-away?

Shane Mullen – More moderate storms. An orifice. A stow-away.

DM – Adequate energy dissipation, I presume?

Shane Mullen – Yes. Primary discharge point is outlet. Culvert, watershed 3. Where the forest is to the south.

MM – Strathmore abuts watershed....

Shane Mullen – The reason I chose the location of basin, the worst of the flooding, not to exacerbate the flooding issues.

Mary O'Neil – Reads timeline provided by Scott Gustin.

Miles Waite – Isn't that timeline changed for the wetlands permit? Comment date changed?

April Moulart – Yes. Don't know the date.

Mr. von Turkovich – Ultimately we will satisfy the questions the board has raised. You folks don't need to sit on your hands. We have 3 or 4 issues. Make those comments. It may take us more time. Honestly, Jeff, there will be more coming out in the next weeks and months. We will supply to you, the city, Strathmore. Point out the items still to be considered. We will deal with those.

DM -- I would make a motion in three parts.

- 1) The Conservation Board generally endorses the concept of the South Forty project, and that additional information should be provided by the applicant in regards to the following issues:
 - a. The appropriate buffer for the vernal pool on the property
 - b. Hydrological modeling assessing the post-development stormwater impacts to the wetlands as a result of the project;
 - c. Impacts of forest canopy removal on the forested wetland; and,
 - d. Impacts of shrub swamp clearing on the shrub wetland

- 2) Table specific advice to the city council on the Act 248 application, understanding that the board may at a later date petition the city to participate in the permit process; and

- 3) Table and reserve comment on the wetland permit application.

DL – 2nd.

No friendly amendments?

JS – Impacts of removing trees, canopy.

SY – More information on canopy.

Friendly amendment – added.

JS - I don't support Don's motion. Not a friendly amendment for me.

ZR – I feel like I am not ready to use the language "endorse." Unanswered. Not ready to endorse.

DM – Accepts friendly amendment. So does SY who began amendment.

MM – On the timeline?

DL – We have until the middle of May.

Discussion of timeline.

DM – Could be moot. City Council could decide on their own to participate.

MM – The other thing to consider here – we could simply pass this motion, and could be interpreted that in the 248 process that if the applicant adequately addresses the issues around these 5 outstanding items, the presumption is that they have satisfactorily addressed them if they have provided enough information.

DM – Kind of imponderable. Gee, the CB had three meetings about this, and couldn't decide whether or not to endorse the project. We are not responsible for what the CC interprets.

JS – I oppose offering our general support for this concept. It is premature. There are still meetings going on with the wetland office, other information will be provided. It hasn't been thoroughly analyzed by various parties for stormwater. We don't know about vernal pool, protection. In offering general support for this. This is unlike any solar project in Vermont regarding the sheer acreage of vegetation that will be cleared for this project. It will represent Burlington. It will establish a new standard on how solar will be done in Vermont. I am not ready to endorse this project while waiting for limited pieces of information. I would propose that we simply tell the CC that our concerns have not been addressed to date; not saying that they will not address them, more information forthcoming. I would not table anything. The advice I would give CC is what Mr. Von Turkovich has said. There are outstanding issues here. How will the

significant functions of the wetland be affected, and will they be adverse? Clearing this big of an area for solar will require good answers to these questions before we endorse the project.

Regarding tabling our review on the wetland part of the project, I am hesitant without seeing the application. As far as I know, it is what has been given to us. Nothing from the wetland office that says they are treating this as an amendment. It does not reference any of the materials that have been submitted. I don't know the format the applicant's team supplied that to the wetlands office.

MM to the applicant – Is this substantively changed?

April – There has been supplemental information provided. This is standard for applications. There is a give-and-take. The wetlands staff may ask for more information, but they take new information into consideration when making their decisions. They will provide the state's response.

JS – We have not provided comments. We have provided questions. I would state that their wetland application is flawed. I cannot support this motion. It makes sense to me to make a motion on the 248; respond to the CC and advise them to intervene, which I believe we should. As a 2nd issue, decide whether we as a board wish to comment, and what would those comments be? Make them separate motions.

MM – Vote 3-2 (ZR, JS)-1 (MM)

I don't think this motion precludes us from making a motion on the wetland permit.

MM – We voted to table it.

DL – Tabled it for 30 seconds.

DM – Yes, thirty seconds, but I don't think we can craft comments tonight.

ZR – It would be nice to have Scott's comments as well.

DM – In the past, our comments have flowed largely from Jeff. We don't lack personnel here. It will just take time to do it.

ZR – Would you be willing to draft something?

MM – If you are serious about tabling, and I understand you correctly, tabling the wetland permit, we are done with project review #1 re: 248. Now we will take up the wetland permit.

MM – Who wants to reopen the wetland permit?

5-0-1 (MM)

Wetland permit discussion continues.

MM asks for a motion.

JS makes a motion about 248, advises CC that our concerns have not currently been addressed, and advise them to intervene in the 248 process.

ZR – 2nd.

Vote 1-(JS) 3 (DL, SY, DM) -2 (ZR, MM)

MM – Wetland permit?

Asks for motion.

JS – Motion to file comments, so they can be included by the April 9 deadline. If language can be agreed upon.

ZR -2nd.

5-0-1(MM)

Language recommended by JS:

We oppose the issue of Vermont Wetland permit application as submitted, as it is incomplete, includes inaccurate information, and draws erroneous conclusions and significantly underestimates project's wetlands and buffer zone designations, impacts on significant functions and values.

ZR – 2nd.

LONG discussion.

MM calls for a vote.

1 (JS) - 4 – 1 (ZR.)

New Motion – JS – Fundamentally different way of calculating impacts. Removing woody vegetation, not identifying impacts. Nothing remotely in this league in Vermont for clearing forested swamp, scrub swamp, for a solar farm. Regarding acting DEC for methodology...is it a wetland? It your activity..

MM – We know that.

MM – I am going to ask. Is there some openness to consider and possibly accept a straightforward motion that has a specific, or couple of specific things, phrased in a reasonable way? Otherwise, I will adjourn the meeting.

JS – I don't like you interrupting me.

MM – We know your position. We know the application. We saw it a month ago. We don't have the time. It is too much to absorb and consider. I just can't understand what you are saying any more. Make a motion.

JS – I put forth a motion. The board didn't accept it.

DM – I can't articulate the reasons.

MM – I move that we comment on the application by the deadline, and our comment is that the conservation board has read the application and are skeptical of the calculation for the impacted acres in the application, and the buffer impacted acres.

- 1) Communicate to the DEC Wetlands Office stating the Board's skepticism regarding the application methodology for calculating:
 - a. The acreage of direct wetland impact, and
 - b. The acreage of wetland buffer impact

DL – 2nd.

Vote 4-0-2 (JS, ZR)

Adjournment

DM – move to adjourn

ZR – 2nd.

The meeting adjourned at 9:15 PM.