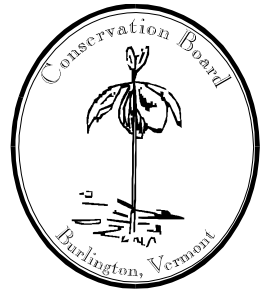


Burlington Conservation Board

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Conservation Board Meeting Minutes

Monday, June 2, 2014 – 5:30 pm
Planning & Zoning Conference Room – City Hall Lower Level
149 Church Street

Attendance

- **Board Members:** Zoe Richards (ZR), Jeff Severson (JS), Scott Mapes (SM), Matt Moore (MM), Miles Waite (MW), Don Meals (DM), Will Flender (WF), Stephanie Young (SY)
- **Absent:** Damon Lane (DL)
- **Public:** None
- **Staff:** Scott Gustin (Planning & Zoning), Dan Cahill, Jesse Bridges (Parks & Recreation)

MM, Chair, called the meeting to order at 5:30 p.m.

Minutes of May 5, 2014

SM noted on pg. 3, 8th paragraph, 2nd sentence should end with “data,” last paragraph “geo-tech” should be replaced with “soil boring data.”

A MOTION was made by MM and SECONDED by MW:

Approve as corrected.

Vote: 8-0-0

Board Comment

SM noted that last month’s discussion with Karen Bates was not especially clear as to what projects would qualify for funding for watershed improvements. Board members would like her to come back to meet with them to clarify the standards for qualifying.

JS asked about online board minutes. MM suggested labeling them “draft” and also showing the corrected minutes when done.

Public Comment

None.

Open Space Subcommittee

MM said the group met earlier today. They discussed East Avenue co-housing property. Co-Housing would like to convey a strip of land to the city that they purchased from a neighboring owner. They are considering donating the land rather than seeking to sell it. DM doubted its conservation value. MM said also discussed Rock Point Property and Burlington College regarding the pedestrian trail to the bike path. He said the McKenzie ag conversion was not accepted. Dan Cahill is looking into other properties to use for the conversion.

MW asked if there is anything new relative to the potential Burlington College development. SG said that he has not seen anything since the Planning Commission’s review several months ago. Dan Cahill said the College is in discussions with stakeholders as to the form their development build-out make take. The

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idea of an eco-village is under consideration. MM said that the conceptual placement of the pedestrian path is unsatisfactory.

Update & Discussion

1. Bike path reconstruction

Jesse Bridges and Dan Cahill appeared.

Jesse Bridges overviewed the project and referenced the dedicated website for the bike path reconstruction. There are 16 identified components of the project that spans the 8-mile length of the bike path. Preliminary design is done. Focus is now on the sections from Perkins Pier to North Beach to construction in the fall. TIF funds are available for these sections.

MW asked about the connection between Queen City Park Road and Oakledge Park. Mr. Bridges responded that options include striping the path or reworking it as a multi-modal path. He said the path will be realigned through the Park to avoid the parking lot. DM noted that some directional signage will probably be needed to provide way finding.

MM, was there consideration of running the bike path parallel to the Park roadway? Bikers tend to move quickly down the hill on the current path. Mr. Bridges said that intentional design will improve safety of the path through this area of the Park. There is not enough room to run the path parallel to the roadway. DM asked if striping a dashed line down the center of the path had been considered.

Mr. Bridges noted the need for cantilevering through part of the Barge Canal to achieve 11' width. He pointed out several locations where pavement will be removed. He noted several areas by the treatment plant and Perkins Pier that are within the flood plain. The hard turns by Perkins Pier are to be softened. The parking hut at Perkins Pier will eventually be removed. It would be replaced by multi-space meters. The very large cottonwood tree in front of the Shanty will be removed. There is consideration of putting the path on the west side by the path by LCT. Mr. Bridges noted that road crossings will be colored. He said bids are due by the end of summer with construction this fall. Work in the Urban Reserve would take place in the spring.

Mr. Bridges said there is concerted effort to preserve the existing silver linden trees along the path through Waterfront Park. At the north end of the park, the path will be rerouted to the east along the existing gravel access road. The center path crossing will be removed. The gravel access road would be reconstructed with grass-crete. WF asked if there will be a curb between the access road and the path. Mr. Bridges said no curb would be installed, but fencing will be in place during events. The path will be realigned through the urban reserve to avoid the dirt road. The realigned path will be closer to the shoreline; about 25' from the water's edge. The dog park will be reduced in size.

MM, was there consideration to keep the primary path along the road and to have just a walking path along the water's edge? Mr. Bridges said that was a consideration. MM asked if this arrangement is a done deal. Mr. Bridges said it still needs DRB approval, but it's the selected option. MM noted the need to stabilize the shoreline here. MW said getting a multi-use bike path and a dedicated pedestrian path may be asking too much.

MM asked about permitting. SG said whether a major impact or just conditional use has not yet been determined. In any event, the work in the Urban Reserve will require Conservation Board review. Mr. Bridges asked if July is still a possibility. SG said it is.

2. South Forty Solar, LLC

MM introduced this discussion item. DM wants to know the permitting sequence path.

MW said that the Act 248 petition has not yet been submitted. The wetland permit has not yet been granted. He said that the wetlands permit application may not yet be complete. JS said he thought the wetland permit application was complete. MW said there is no indication of a wetland permit application online. SG said his last correspondence from the applicant indicated that he's not yet submitted and the

timeline is uncertain. MW said Strathmore and the applicant are involved in ongoing discussions regarding stormwater. MW said on the power purchase agreement has been okayed. He said that the applicant wants to work with Strathmore; he does not want them to oppose it.

MM, once the 248 petition has been submitted, then what? SM said that once the petition is submitted, there is a public hearing. Following that, the timeline for parties to intervene is established. He thought the BCB's charge from the CC is to advise them whether to intervene or not in the process. The city does need to petition to be an intervener. MW asked who decides. SG said the City Council will. SM said the PSB can choose to listen to the city's input or not.

MM asked if it's possible for the city to participate at the state stormwater permit level. MW said that a state stormwater permit is not needed based on square footage. SM said that if we feel there is a stormwater concern, then we should advise the CC to participate in the PSB process and we should also advise them to advise ANR that state stormwater review should be applied.

JS said it's unclear whether additional materials being discussed would be included into the wetland permit application or simply be considered as additional information. A permit may be issued any day. MW, they could deny it. DM they could request additional information. JS said the application has been deemed complete.

MM said the BCB clearly has concerns about wetlands and stormwater relative to this project. What we did was tell the CC that we have questions that have not yet been answered. We have outstanding concerns that need to be resolved.

JS, as for the wetlands, the opportunity to raise all of those concerns was during the public comment process. That has come and gone. SM said that there will be a presumption of compliance at the PSB relative to wetlands if a wetlands permit is granted. The applicant is putting forth a unique take on area of disturbance by just counting the post holes. The only way wetlands will be looked at closely at the PSB will be if someone raises that concern before them.

ZR said that we may be done with the wetlands permit piece. To SM, how does the city intervene? SM responded that the timeline is established after the petition is filed and the initial public hearing held. DM asked what review criteria are considered. SM said the criteria are Act 250 criteria plus criteria relative to energy.

MM said the BCB should advise the CC to intervene to weigh in on these items. DM said the urgency is less than what we might have once thought. DM asked if the city could inquire as to the status of the wetlands permit application. WF said there's not much for us to do until or unless the wetlands permit application is approved or denied. At that point, we need to decide whether to advise the CC to intervene in 248 relative to wetlands or otherwise.

ZR, we could generate a list of concerns. Would we get to see how or if they have been resolved? JS, you could request by way of a public records request. More likely, you could see the findings associated with the permit.

SM, there is a different path for stormwater. The burden to raise to ANR's attention that they should exercise their jurisdiction, that's not going to happen unless someone pushes that button. He said that Megan Moir has the ability to require best management practices relative to Chapter 26. WF, in that case, could we advise Megan directly? SM said she would likely welcome the Board's input.

MM, given the current plans, are there serious stormwater issues with the project that the applicant has not addressed or not provided enough information? SM, yes. He said the materials provided so far showed pre and post site conditions as identical. It claims no change in the runoff characteristics. There is no accommodation in the model for the loss of vegetation or associated evapotranspiration. Rather than debate the model, simply monitor the site to assess the validity of the stormwater analysis and make adjustments accordingly. MM recapped and suggested that we relay the concern to the CC.

DM said that requiring monitoring requires that we allow the project to be built to make the assessment. Are you asking the applicant to monitor now to validate the existing conditions assumption? SM said he's seeking a condition for post-construction monitoring. MM said this is a legitimate concern and would not unduly burden the applicant. SY, if monitoring shows the analysis was inaccurate, then what? SM said that follow up would be needed to mitigate the change. It could be "plan b." DM, if I'm the applicant, I'm going to wonder, who makes the judgment? SM said it would likely be Megan Moir.

MM said he's unaware of requiring such a condition on another project. WF said it could be handled by way of the city's stormwater approval issued by Megan Moir.

MW said the applicant took a conservative approach to the existing conditions by assuming "woods – fair" status.

MM, do we think this project is a big deal? WF, we can't make that call until we see the 248 petition. MW declined to comment beyond the process. JS said he'd defer to SM relative to stormwater. He found it a stretch as presented. SY agreed with JS. Do we have to wait? SM, he's just sharing his concerns. This is a sensitive site in the city. If we declined to let the CC know this, we'd not have done our jobs. If this Board feels that the project is not a concern, hurdles remain for the project regardless. The applicants really ought to mitigate the change between pre- and post-construction. MM, how to mitigate? Does the detention area need to be resized? SM, probably, to accommodate increase in runoff. It's not a fatal flaw. It's not been addressed, and they ought to. DM said the applicants have used the curve number technique. It's been commonly used, but it's a blunt instrument. He'd have to revisit the numbers before concluding. He has a hard time inasmuch as we've not made statements like this even with much larger impervious projects. It may be somewhat overblown. Strathmore may have problems that go beyond this site. The property was previously approved for much more intensive development with much greater impervious surface. Stormwater management was found to be acceptable. ZR said we're looking at a different project through a different process. JS, all of the ameliorative measures are in the uplands, but none are in the wetland because the applicants don't want to trigger U.S. Army Corps of Engineers jurisdiction. DM said the alternative view is that the applicant doesn't want to create additional disturbance in the wetland. JS replied that it's all about avoiding Army Corps jurisdiction. If the risk of being wrong on the stormwater model is increased downstream flows, then we should err on the side of caution and see that everything is routed through the stormwater system. It would reduce the risk if the analysis is wrong.

ZR, the wetland buffer remains a concern with unresolved issues. The wetland that's not being developed is a rare natural community and falls within a high priority for the state. It seems hard to believe that there will be no impact. The applicant seemed to be cagy in dealing with this information. More open dialogue would have been preferable. Perhaps Board members should speak with the State Botanist. JS said that the wetlands permit applicant will be reviewed by the Nongame and Natural Heritage folks at the state. He doesn't think the application could claim inaccurate statements by state staff.

DM said that we should not lose sight of the fact that a solar farm is being proposed. Not a shopping mall or Walmart. The impacts of climate change could reach far beyond impacts relative to this project. WF said that this is outside of the scope of the charge given to us by the CC. MM said it's fair to consider our charge within this context. That's the PSB's job. ZR, we need to do our jobs properly. MM, wants to wrap up the discussion.

MM proposes continued discussion relative to wetlands on our next agenda if it is uncrowded.

Adjournment

The meeting adjourned at 7:35 PM.