

CONCORD CONSERVATION COMMISSION

REGULAR MEETING MINUTES

April 12, 2023, 7:00 PM

City Hall, 2nd Fl Conference Room, 41 Green Street

Attendees: Chair Kristine Tardiff, Vice-Chair Jim Owers, Councilor Stacey Brown,
Members Jeff Lewis, Chris Kane, Emily Landry, Alternate Mark Coen, Alternate
Allison McGregor

Absent: Members Rick Chormann and Katherine Healy

Staff: Beth Fenstermacher, Assistant City Planner
Alicen Twardosky, Administrative Specialist

Public: Brian Blackden, Grange
Reggie Moreau, Signature Homes
Doug Maguire, Dubay Group
Rebecca Ross

Call to Order

The meeting was called to order by Chair Tardiff at 7:02 p.m.

1. Minutes

March 8, 2023

A motion was made by Mr. Lewis, seconded by Mr. Kane, to approve the minutes of March 8, 2023 with the revision that sentence one reflect “Mr.” Lewis and “Ms. Landry.” All in favor. Motion passed unanimously.

2. Brian Blackden from the Concord Grange (sponsor Midnight Merriment fireworks), to follow up on fireworks decision at Gully Hill.

Mr. Blackden (Grange) was informed by the fire department that there is a new lease order for the Gully Hill fields, the present location for setting off fireworks for the Concord Tree Lighting, the day after Thanksgiving. Mr. Blackden felt that they were not invited for discussion of this decision for the lease and to stop using this location. Mr. Blackden stated that they require 420 square feet of property for the fireworks display to meet fire department safety requirements. Sunfox Farm does not want this use permitted due to potential contaminants from the fireworks impacted the soil. Chair Tardiff voiced that Sunfox’s lease is in effect and suggested they look into utilizing the area in the Everett Arena for the fireworks, similar to Black Ice Tournament. Mr. Blackden stated that area is smaller and will reduce the display by half. Mr. Blackden stated that he spoke with Atlas (fireworks company) and they clarified that debris floats 62-100 miles away, in the air, limiting damage to the soils they shoot from. The fireworks are shot within a 420’ circle, including a safety zone for personnel.

The Commission would like Atlas to attend a Conservation Commission meeting to evaluate the impact of the fireworks show on the land and effects to wildlife. It is noted that the fireworks application through Code has been edited to reflect the need for the current landowner to be contacted for any use. Ms. Fenstermacher asked that Mr. Blackden contact her directly once he has confirmed the date with Atlas to establish them on May’s agenda.

3. Signature Homes LLC, requests Major Subdivision approval for a 5-lot cluster subdivision and a Conditional Use Permit to utilize frontage lots for property off of Curtisville Road in the Open Space

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residential (OS) District.

Doug Maguire (Dubay Group) presented the proposed subdivision off Curtisville Road, in the RO district. The property would yield nine units under the cluster ordinance, and would require new roadway within the site. The owner, Mr. Moreau, didn't feel that option fit the character of the area. They applied for a Conditional Use Permit for a conventional subdivision, meeting the open space requirements. The total property is a little over 36 acres. The developers are applying for five frontage lots. This will be a conventional subdivision with 2-acre lots and 200-foot frontage. A majority of the wetland areas are in the rear of the property. The lots all grade out nicely and work well within the existing typography. To avoid the easement issues of the utility right of way, the developers are proposing to have the driveway for Lot 1 outside of this and up the side. They are staying away from the buffers and wetlands. The open space lot does have access to the frontage on the wetland area on Curtisville Road. Mr. Moreau confirmed that the open space would be put under conservation restrictions through a deed to an entity of the City's choice. Ms. Fenstermacher asked if Mr. Moreau was considering deeding the property in fee, or as a conservation easement. Mr. Moreau prefers the sale to the City vs. the easement for process simplicity.

Ms. McGregor asked if there any concerns for trees being removed and lawn expansion. The developers are required to put up buffer signs on the trees to clarify where the wetland buffers are and where trees should not be removed. Mr. Moreau has asked his Engineer to move the wells and leach fields forward closer to the houses to deter people from clearing unnecessarily.

Mr. Lewis stated that he considers the wetlands to be a high-value resource as this the headwaters of Mill Brook, it should be treated as a water body buffer Lot 3 is Mr. Lewis's chief concern and is asking to consider a more permanent buffer to avoid encroachment. Mr. Lewis asked about the drainage basin on Lot 1. Mr. Maguire stated that they completed a full drainage analysis, there are only minor drainage increases, and they are mitigating for the drainage increase. The detention pond will offset those potential increases from the development. This lot was chosen for mitigation because the greatest impact is the longest driveway of this lot. There will be language in the deed that calls out the detention basin as something that needs to remain and be maintained. Placement of the lot was carefully considered to limit the desire of the owners to encroach on the wetlands or buffers. Mr. Lewis is asking that Staff take careful consideration of Lot 1 and possibly Lot 4. Mr. Lewis asks that if the developers look into wildlife or an NHB Datacheck, please share the reports with the City. There is an access easement for grading on the adjacent Lot 2. Eversource needs to grant permission for any easements that encroach on their utility lines. Ms. Fenstermacher confirms that Eversource would need to be a party of any easement that would afford the public a way around the wetlands; however, an additional easement would not be required if the existing Eversource easement allows public access. This project attends Planning Board in May. Chair Tardiff feels a site visit would be beneficial and is concerned for the significant wetland property across the street.

If the property is deeded to the City, there will be deed restrictions placed. Zoning requires legal access from Curtisville Road to the open space lot.

Mr. Moreau is in favor of deeding the property to the City rather than a conservation easement.

A motion was made by Ms. McGregor, seconded by Mr. Kane, to notify the Planning Board that the Conservation Commission holds no objections to the layout, the interest in the City having the ownership in fee, with the condition that the access to the open space lot is investigated. All in favor. Motion passed unanimously.

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4. NHDES Items

- a. Eversource Energy (PSNH) Standard Dredge and Fill Wetlands Permit Application for the temporary impacts to 125,697 sf of wetlands for the placement of timber mats to access utility poles as part of the V182 & F139 Electric Transmission Lines Upgrades Project.

The applicant attended last month. A full wetlands application is required for this project. The Commission had no additional comments and does not desire to intervene.

- b. Amoskeag Beverages Standard Dredge and Fill Wetlands Permit Application for the permanent impact to 15,998 sf of wetlands to fill in a fire pond in order to accommodate expansion of the operations at their facility at 138 Hall Street (hard copies will be provided at meeting).

The applicant attended last month as well. The Commission had no additional comments and does not desire to intervene.

5. City Open Space & Easements

- a. The Ralph Waldo-Emerson trail race is seeking an event permit to host the race on the Swope, Winant, and Swope-Winant Connector trails on May 6th. They are anticipating 50 spectators and 150 participants. The permit is going through Code right now. Chair Tardiff feels trail conditions would be dry enough. There was no damage last time they held the race. The Commission would like to ensure that temporary direction signage is removed right after the race, and use chalk or other temporary paint instead of paint to indicate tripping hazards (rocks and roots). When the race was done at Broken Ground, the Commission requested that the race organizers place signs up at the trailheads a week prior to the race to notify all trail users of the upcoming event, she asked if the Commission would like this to occur for this event as well. Coordinate with the Mr. Matson for clean up on the trail such as signage and chalk marks. McGregor suggested leveraging clean up of this trail by the event coordinators.

A motion was made by Vice Chair Owers, seconded by Mr. Kane, to support approval of the race permit. All in favor. Motion passed unanimously.

- b. Carl Matson, Trail Ranger, has returned. Ms. Fenstermacher will be sending out letters to property owners as follow up from the fall easement monitoring and then have Mr. Matson go back out there.

6. Reports

- a. *Trails – Jeff Lewis & Kris Tardiff*

There has been a lot of trail maintenance over the past month. Carl Matson is back. He is walking the trails and taking notes. There were two new members at the Trails meeting today, Rebecca Ross and Aaron Monier. Rik Van de Riel offered to be the coordinator of the spring and fall clean up. Ms. Fenstermacher is working with him to get trail steward contacts and help reports be generated for the Commission.

Ms. Fenstermacher will be coordinating a time for a site walk at the Richard's Community Forest before the next meeting. A couple meetings have been had with the family, and it was decided to pursue putting in a trail on the Spears side of the property as a way of getting something going out there since it is the most feasible. There is currently access from Victoria Lane. The family will be invited as part of the site walk.

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Regarding Broken Ground Ry's Way Extension, Mr. Owers reported that NEMBA coordinated a wildlife assessment by Dan Geiger. Vice Chair Owers is doing a site visit there tomorrow.

Ms. Tardiff stated that she led a discussion with the Trails subcommittee members about the future of the committee. Currently on the Trails Subcommittee there are four members and three alternates. There are three open positions. Consensus was to have a monthly meeting with the option to cancel a couple meetings a year due to lack of activity. They need a Chairperson. City Council votes in Conservation Commission members. Conservation Commission appoints members to the Trails Subcommittee, with member feedback and nominations. Councilor Brown suggested Advertise the search for members on the website. Trails Subcommittee members would like to weigh in on the vetting of members. The Commission concluded that the process of formally appointing candidates should include: applicant submits a letter of interest and resume; attend a Trails meeting; and sit with the Conservation Commission to give a personal testimony.

The option was restated to have someone on the Conservation Commission chair the Trails Subcommittee. Mr. Lewis and Mr. Owers think it would be more appropriate for someone currently on the Subcommittee, since they are involved. Ms. Fenstermacher and Chair Tardiff will edit the bylaws for review and possible adoption of those changes based on the meeting outcome. Mr. Lewis would like to see the Trail Steward Coordinator be a rotating position.

Fran Philippe is the Vice-Chair and will act as Acting Chair at May's meeting. Concern was raised over multiple people leaving in such a short amount of time. Ms. McGregor voiced interest in being the liaison between Trails and ConComm.

Ms. Fenstermacher asked if anyone would like to lead a hike as there is interest because many do not like to hike alone. Councilor Brown will host one Saturday, April 22nd (Earth Day) at 9:30 a.m. at Swope Trail. Ms. McGregor will lead one May 13th, possibly starting at N. Curtisville Road of Broken Ground and August, location and date TBD. Chair Tardiff will check her calendar and get back to Ms. Fenstermacher on a date she can lead a hike in June.

b. Forestry Report (attached to agenda)

There have been a lot of blowdowns this year. Mr. Klemarcyk has been busy. Ms. McGregor clarified that Ron clears when he sees them and doesn't necessarily report back each event. Chair Tardiff asks that if anyone is on the trail and notices downs, please report to Ms. Fenstermacher with a picture and it will be addressed.

c. Tree Committee –

i. April 28th - Arbor Day at Kimball Park at 10 a.m.

ii. May 8th – 2:00 p.m. Arboretum by Eversource (closed to the Tree Committee)

iii. May 16th – Bare root and Containerized tree planting workshop at City-wide Community Center. There will be a tree give-a-way courtesy of Unutil. Eversource provides a resource on their website for showing the best location for planting trees for energy conservation within a property.

iv. Councilor Brown introduced the possibility of a tree tour on Blossom Hill the weekend after Memorial Day.

v. The Sustainable Tree Program has sold out for 2023 already.

d. Local River Advisory Committees

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A couple of people have reached out to showing interest to be appointed to the Contoocook North Branch River LAC and Upper Merrimack River LAC.

7. City Council / Planning Board

Nothing new to share.

8. Follow-up / On-going Items:

- a. *Conservation Easement Standard Templates* – Waiting on Ms. McGregor’s edited document to present for Danielle Pacik’s review. Will schedule another work session after Danielle’s review.
- b. *Conservation Preserves* – Waiting on Chris Kane to write up the notes.
- c. *MRGT*

Mr. Kane reported that the Friends of the MRGT Received a \$25,000.00 private donation in addition to the previously reported \$150,000 Merrimack County grant. Funds were also received from the “round up” fundraising at the Concord Coop. The surveyors are on the ground, once complete, the permit applications can be completed and then the project can be put out to bid.

9. Other Business

- a. *Jason Cross, variance application:*

Mr. Cross lives at 90 Sanborn Road. He is seeking a variance to construct a driveway within the side-yard setback, about 10 to 15 feet. This abuts the Richards Community Forest Property and he is reaching out to the Commission for any comments prior to going to the ZBA. Ms. McGregor noted that there is plenty of space to build a garage without encroaching on the setback. Mr. Lewis and Vice-Chair Owers would like to see the proposal prior to motions. There was a suggestion made to put a fence up by the City or the owner to limit the ability for the owner to use City property to get equipment to his backyard.

- b. *Request to name a trail after Tom Walton:*

This suggestion is for a portion of the trail at the Broad Cove entrance to the river. Ms. Fenstermacher stated that the request was made by a woman that lives across from the trail and saw Tom regularly using it; she also voiced concern over this request not being made by the family and feels the family should be involved with it. Mr. Kane reported that FMRGT is considering doing something to acknowledge him as well, either a portion of the MRGT or the triathlon. In the past, Trails have been named after someone who donated land or was involved in the development of the trail. The Greenway Trail may be more appropriate for naming after him since he was actively involved with that organization. Ms. Fenstermacher will contact the requestor and update them on the Commission’s determination that the trail naming will not be considered as there is desire of FMRGT to do something.

- c. *Financial Update (report linked to agenda)*

- a. As of December 31st 2022, we have over \$800,000 in the trust. \$245,000 is earmarked for Potter Farm.
- b. Chair Tardiff is gathering some initial materials for the request to Council to increase the percentage of the Land Use Change Tax that is deposited into the Conservation Trust Fund.

- d. *Right to Know and How to Conduct a Public Meeting training:*

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a. May 9th @ 5:30 p.m. in the City Auditorium (2 Prince Street). Hosted by Jim Kennedy.

e. Potter Farm

Ms. Fenstermacher reported that the exclusion area for the Potter Farm for the easement has worked through with the family. The survey can now be completed and easement looked at. October 31st is the deadline for the Purchase and Sales Agreement. Once we hear back from NRCS, Danielle Pacik will provide a draft easement.

f. Chair Tardiff introduced a survey that the Five Rivers Conservation Trust sent to Conservation Commission Chairpersons. They are doing a Regional Conservation Plan and would like it completed by each Conservation Commission. Ms. Fenstermacher informed the Commission of a meeting being held on June 5th at 7:00 p.m. at the Community Center on Loudon Road. It includes 17 towns.

10. *At 9:20 p.m. Mr. Kane motioned for a non-public session, seconded by Vice Chair Owers for follow up discussion regarding the acquisition of conservation property in accordance with RSA 91-A:3, II(d). The motion passed unanimously with a role call as follows:*

Kristine Tardiff, in favor
Jim Owers, in favor
Jeff Lewis, in favor
Emily Landry, in favor
Allison McGregor, in favor
Chris Kane, in favor
Mark Coen, in favor

At 9:47 pm Mr. Lewis motioned to exit non-public session, seconded by Mr. Kane. The motion passed unanimously with a role call as follows:

Kristine Tardiff, in favor
Jim Owers, in favor
Jeff Lewis, in favor
Emily Landry, in favor
Allison McGregor, in favor
Chris Kane, in favor
Mark Coen, in favor

Mr. Lewis made a motion, second by Ms. McGregor, to seal the minutes per RSA 91-A:5, IV. The motion passed unanimously with a roll call vote as follows:

Kristine Tardiff, in favor
Jim Owers, in favor
Jeff Lewis, in favor
Emily Landry, in favor
Allison McGregor, in favor
Chris Kane, in favor
Mark Coen, in favor

A motion was made by Mr. Owers, seconded by Mr. Kane, for attorneys' fees up to \$2500, and to offer \$1500 for the easement subject to public hearing vote and Council approval. Mr. Owers will make sure to

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explain the process and that we will be preparing the survey at the extent of bounds being placed in the ground. All in favor. Motion passed unanimously.

Adjournment

There being no further business, Mr. Lewis made a motion, second by Mr. Kane, to adjourn the meeting at 9:49 p.m. All in favor. The motion passed unanimously.

Respectfully Submitted,

Alicen Twardosky

Administrative Specialist