

## Burlington Conservation Board

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## Conservation Board Meeting Minutes

Monday, June 1, 2015 – 5:30 pm  
Department of Public Works – Main meeting room  
645 Pine Street

### Attendance

- **Board Members:** Zoe Richards (ZR), Jeff Severson (JS), Matt Moore (MM), Miles Waite (MW), Stephanie Young (SY), Damon Lane (DL), Don Meals (DM)
- **Absent:** Will Flender (WF), Scott Mapes (SM)
- **Public:** Ruby Perry, Mary Twitchell, Charles Simpson, Harris Roen, Diane Gayer, Andy Simon, Jean O'Sullivan, Roger Leibowitz, Ann Sicarilo (Burlington College open space) Eric Farrell, Owiso Makuku (Burlington College sketch plan), Nick Warner (pre-acquisition funding request), Ravi Parikh (energy code)
- **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 4, 2015

A MOTION was made by JS and SECONDED by ZR

Approve as written.

Vote: 4-0-2

### Board Comment

DM commented on his driveway plan. He's considering pervious pavers, but he's waiting for the pending LID incentive.

### Public Comment

See open space subcommittee.

### Open Space Subcommittee

#### 1. Former Burlington College lands update

MM asked members of the public interested in speaking about the Burlington College land wait until after Jesse Bridges has provided an update.

Jesse Bridges gave an update on the 4 party partnership (Vermont Land Trust, Champlain Housing Trust, City of Burlington, and Eric Farrell) and the outreach process being led by this group.

Mr. Bridges noted that the public tours and meeting held on May19 has garnered a lot of feedback. He spoke about the continued opportunities that will be available for public comment, specifically an online tool and a second public meeting in July.

Mr. Bridges noted that the partners met after the May 19 Sustainability Academy event and determined that more focused outreach was necessary.

- AALV – Association of Africans Living in Vermont
- The Somali Bantu Association
- Wards 2/3 NPA
- ONE Arts and Business Association
- Lakeview Cemetery Commission

He noted that once the public comment website and location and date for the next public meeting there will be wide advertising done via FPF and other means to notify the public.

MM asked if he was aware of the overall timeline of the public outreach process.

Mr. Bridges shared that the hope is to have the information and input selection, zoning review, and various pro-forma scenarios accomplished by mid-summer. He noted that the types of development, trail protection, and building height were prominent topics in the public comments from the May 19 meeting.

MM noted that he attended the May 19 event. He raised the challenge of the desire for public comment and opinion and reinforced the opportunity to speak at the Conservation Board.

ZR shared a reflection on the May 19 event. She shared that she was unsure how much folks understand about the complicated nature of the real estate transaction and what is actually on the table with the Burlington College property and development transaction. She feels that some frustration that members of the public have with the process may be related to this lack of information and perspective.

MM shared that this is the third opportunity that the Conservation board and City has taken to try and conserve the property (first with diocese, then with Burlington College and now with Eric Ferrell).

ZR shared that something worth considering is that if the College failed and the property went into receivership we would be in a much more challenging position.

MM reopened the floor for public comment. DM recommended 3 minute limitations, and JS added that if there was something important that a member of the public wanted to share it is ok to go up to 5 minutes.

Ruby Perry spoke first. She stated that she is a member of Save Open Space. From the beginning she stated she has been asking questions. She shared that SOS has gone to great lengths to get information. Ms. Perry raised MM's conflict of interest that he noted previously but did not seem to be acting upon. Ms. Perry shared that she doesn't feel like the public has truly had an opportunity to give input. She shared that in an early meeting with the Mayor she asked, "Who stands for Open Space? Jesse Bridges said he does." Ms. Perry doesn't feel like the current conversations Jesse has been helping lead truly show that he is "standing for Open Space. When does the public acquire "real rights?" It seems the question is "What small part of the property will be saved? When will we actually talk about conserving Open Space and not just a sliver? Ms. Perry shared that she is positioned to be an adversary and not an advocate because she doesn't feel like she has been included appropriately.

MM shared with Ms. Perry that the official time for public comment happens during the formal review process. He noted that the fact that we are here prior to that, discussing potential development shows that there is an above and beyond effort being made. MM also spoke to the work Jesse Bridges has done since coming to BPRW and noted that conservation efforts have increased significantly.

Mary Twitchell lives in the NNE and she shared that at some point she assumed that the public would be involved in the project in a meaningful way. She felt that the May 19 meeting was a failure. She left feeling that she didn't have a voice. She didn't feel that it was a real opportunity for meaningful engagement.

Charles Simpson asked, "Is the board willing to commit the CLF to save the Burlington College Land? Is the board willing to raise more funds through partners, VLT etc..? Is the board willing to champion public engagement through strong leadership?"

ZR responded to Mr. Simpson's question that the board recognizes the significance of the BC parcel. She shared that, yes, the board does recognize it and it is why the CB has been focused on conserving it for years. The BC parcel is one of the reasons that the CLF exists. ZR also noted the Open Space Protection Plan.

DM reinforced the Open Space Protection Plan. Regarding Charles Simpson's question - "Will the Conservation Board Commit the CLF funds tonight" – from DM's perspective this is a no. The CB can't do that tonight because there is a process. DM said he would look positively at an actual application by Eric Farrell to conserve the land. DM also noted that partners are needed for any deal and that the CLF fund was never designed to be the sole source of funding.

MW spoke to follow up with Mr. Simpson's comments to reinforce that the group is advisory but not advocacy.

JS spoke to reinforce to the process of how projects get funded. Application leads to review and consideration and unlocks the rest of the process.

Harris Roen noted he is a member of the Planning Commission. He shared that he was unhappy with the format and type of engagement available at the May 19 meeting. He shared that he has attended several meetings where members of the public seem to want to share and speak and they end up not getting the chance to. He shared that he feels the \$20k spent from CLF doesn't seem to be well spent. He feels that strongly moderated sessions that allow folks to speak out is critical. He is glad to know that the money is not just being used for the May 19 meeting.

MM spoke to the adversary vs advocacy roll noted by Ruby Perry and asked the Save Open Space to come to the table to say "how can we help." He invited SOS to bring their skills, resources, and time to help the process.

DL spoke to the question "can we rally support." DL noted that other groups involved are typically better at rallying support. So it isn't that CB doesn't want to, but that they might not be the most appropriate body to dynamically create support.

MM spoke about Dan Cahill's role in communicating with Conservation Board about acquisition and stewardship projects.

Diane Gayer spoke about how she feels that there is a notion that the CLF fund and VLT funds will lead to the full conservation. Ms. Gayer feels that BPRW and the Conservation Board need to be leaders to push toward full conservation because she feels that that is what the public wants. She gave an example of the Bolton Valley land conservation. MM shared that he understands Ms. Gayer's point of view on the Bolton Backcountry.

ZR asked, do you think there is a will out there to conserve the full land? Ms. Gayer, how much money do we need to buy the open field? Ms. Gayer also wanted to bring up the "Why we conserve?" She shared that the natural history and the actual land is vital because it is dynamically active and fits with so much more. Collectively we need to own it together.

Andy Simon shared that this was his first time at the CB and he is going to try not to repeat others. He shared that he doesn't expect the CB to do all the work. He recognizes the specific role of the CB and what it can and cannot do. He shared that he wants to assure you that the group of SOS is not a nucleus of radicals and agitators, it is a group of concerned citizens who want to see the BC land protected. He assured the CB that the group is not naïve about the history of open space and various plans etc...they are propelled through the clear sentiment that people's voices aren't being heard. One of the reasons that he loves Burlington is the layers of public process. On this topic he feels that these layers of public process have been subjugated.

MM, one of the positives from all of this is the creation of SOS. Perhaps the SOS can play an integral role in the future of open space protection in Burlington. SOS can become a body of public leverage for conservation in the future.

Jean O'Sullivan, state rep who represents the area where the BC land. She shared that she is ready to offer her services to engage her constituents and with facilitating. She feels that the end result is going to work out really well. From a statewide perspective we have a significant housing crunch and urban sprawl. The challenge is between open space in Burlington and the landscape of Vermont outside of Burlington. She cautioned that sprawl could result in greater problems.

DM responded that he opposes sprawl, but doesn't want to sacrifice Open Space in Burlington for a blind trade that sprawl won't happen if we develop our open space.

Roger Leibowitz, wants to encourage CB to use the extent of its legal and financial resources to preserve the Burlington College property. The future of Burlington depends on the conservation of this land.

Ann Sicarilo, she lives across from the BC property. Whether it is in the city or urban sprawl, I am grateful to have a home and feel like some housing is good, but none of us would be here without the natural world. Before BC bought the property the backfield was wild. She feels the flora and fauna have decreased since BC took ownership. On a bigger scale we need to use the open space in Burlington to promote wildlife and natural processes.

ZR, one of the reflections that is coming out of this discussion tonight is that developing open space is emotional. It isn't the same as traffic planning. Having space for airing frustrations, emotions, etc. is a critical process.

Mr. Bridges, feels that many forums for dialogue and input are important. He also noted that management of open space and acquisition are part of our charge but also that education is a critical element. In this coming year we will be doing more work on conservation education.

DM, I think that SOS is great, and it is great that they have formed. He hopes that SOS continues to be involved in moving conservation and open space issues into the future.

## 2. Pre-acquisition funding request

MM noted pending pre-acquisition BCLF funding request. Would give Parks the ability to negotiate with land owner and do its due diligence. The recommendation is to provide up to \$15K for this work. MW asked if this approval is general or specific to this property. MM, for this property. DM said these funds need to be responsive to the terms of the resolution that created the Legacy Fund. Items funded with the Legacy Fund need to fall within the parameters of the resolution. Dan Cahill noted that the full year's capital outlay had to be amended this year, due largely to the Archibald Street property. Generally, it's been an active year. JS said he opposes expenditure of the fund for this request. He's not sure all of the proposed activities fall within the CLF resolution. A significant chunk of the money goes to administration every year – 30%. These types of request that go well beyond land acquisition should be funded out of the 30%. MM said they are acquisition expenses. JS disagrees. This is a dynamic river system. A piece of this requested money is for engineering to reinforce this piece of land. We don't know how this work will work within the larger context of the river corridor. We also don't know how the river channel might move over time and how that may affect trail location. The trail should be able to shift within the flood plain.

Dan Cahill suggested moving into executive session. Board members declined.

DM requested an overview from MM about the subject property. MM said it is a private piece of property along the Winooski River in the Intervale. The owner is willing to talk. He had suggested that Mr. Cahill put together a pre-acquisition budget. This is no implementation or work on the ground. There will be an analysis of the trail and whether it is feasible to acquire. Money for phase 1 assessment. What are the

regulatory processes that may be triggered for work on this property? It seemed like \$15K is a fair number.

JS said that a survey, appraisal, and legal work would be required, and he would support funding for that. Engineering work goes beyond what the fund was set up for.

Nick Warner said he's familiar with JS's work. Armoring the bank is not something anyone is interested in. We'd like to see if there is a way to keep this property from being blown out. It will likely involve some work. The property owners are patient enough to engage in a more lengthy discussion. We have an interest in replicating the floodplain forest that exists on the McKenzie parcel. Perhaps we do some homework and come back for a continued discussion.

Mr. Cahill said we should consider the feasibility of stabilizing that stream bank. Alternatively, we can do nothing and watch it wash away.

MW, relative to the stream bank, an alternative to getting an engineer involved, let's work with the obvious. There's a cornfield 5' from the water. There needs to be a buffer.

DM some kind of assessment needs to be done – an important component of a management plan for the property. Land acquisition, management plans, and conservation education are specifically enabled in the CLF resolution.

MM pointed out the fundamental differences in viewpoints. He's looking to avoid half a dozen specific requests for funding for pre-acquisition expenses. Getting an appraisal and title work done is absolutely pre-acquisition cost.

Nick Warner said he'd like to work on putting a solution together. This is a dynamic river and also a real estate opportunity that may go away.

JS, do you feel that the engineering study is actually necessary? Mr. Warner said he views it as a necessity.

MM, asked Mr. Cahill what he needs. Mr. Cahill responded that he'd initially ask for dollars for an appraisal and then make separate requests as things unfold.

A MOTION was made by MW and SECONDED by JS:

Support funding for appraisal, survey, and title search.

Vote: 7-0-0, motion carried.

JS suggested a future agenda item relative to funding for projects generally.

### **Project Review**

#### **1. 15-1212SP; 351 North Ave (WRM, Ward 4N) Burlington College/Eric Farrell**

Sketch plan review of proposal to convert orphanage building into residential units. Also, establish common spaces and assembly space for existing college.

Eric Farrell & Owiso Makuku appeared on behalf of this item.

JS, MW said they'd recuse from the discussion. MM said he may be involved in the other properties. DL said that because this is sketch plan review, JS, MW, and MM can comment if they'd like to. Not an action item.

Eric Farrell overviewed the property – three separate parcels. He's not yet purchased the orphanage but he intends to. This sketch plan is relative to the orphanage property. The proposal is to renovate the

orphanage building and to eliminate one of the curb cuts along North Ave. One driveway will be converted to a pedestrian path. Some of the building appendages will be removed. The ground floor of the chapel wing will be used by the college as assembly space. The parking lot on the south side would remain as-is insofar as this application is concerned.

DM asked about the dwelling units. Mr. Farrell said they would be market rate with inclusionary units. The college can have first dibs to rent apartments.

Mr. Farrell pointed out areas for interim stormwater management for the orphanage property. Long term, a comprehensive stormwater management plan for the entire property will be needed.

DM, does anybody know about the soils here? Mr. Farrell, its all deep sands. DM encouraged making the hardscaped areas pervious, especially those that will not serve vehicles. Mr. Farrell said he thinks he would be able to handle all stormwater onsite. DM noted that infiltration will be an important component.

DL, how will the building be heated and cooled? Mr. Farrell said a new mechanical room will be created. It will be a gas-fired hot water boiler to feed pipes for college. Haven't decided heating and cooling for the apartments yet. Maybe heat pumps. DL, will the building be insulated? Mr. Farrell, there are differing schools of thought relative to insulating existing plaster and lath brick buildings. He thinks he will probably strip down the interior and insulate.

MM, is the permitting process for this property is separate from the back land? Mr. Farrell, yes. MM, are there any shared components among the properties? Mr. Farrell said that he expects significant integration in the long run. Access, for example. Stormwater may be shared along with other utilities.

DM, consideration needs to be given to bike parking and storage. Mr. Farrell pointed out preliminary details relative to bike storage, bike wash, and bike repair.

MM, what considerations will be given to establish green infrastructure throughout the property? Mr. Farrell, open space, trail connectivity, and community gardens. We have an opportunity to do a model development here. DM would like to see open space areas that are not mowed. Mr. Farrell hopes to arrive at a consensus later this summer as to the appropriate balance of open space and development on these lands.

### **Update & Discussion**

#### **1. Conservation Legacy Fund; how funding may be expended**

MM said we need to discuss this item at a future meeting. DL noted that bundling of items is not a problem in and of itself. The problem arose with what was in the bundle requested tonight.

#### **2. Burlington's Energy Code**

DL noted that he put energy codes on the Board's annual list of priorities. The city has an energy code in place, but there is little enforcement. BED staff are technical advisors. New buildings may not meet standards. More enforcement will require more resources. With more than 50% rentals in Burlington, it would be good for renters to know what they are getting into. Providing incentives.

Ravi Parikh from BED spoke. There's a building boom in Burlington. There needs to be a tool to enforce energy codes in Burlington. Without enforcement, there is little reason to abide by the code. BED will be a resource to help in such an initiative.

DM, puzzled, why would you say energy code not enforced on new commercial construction? He heard about a property owner being raked over the coals at the time of sale relative to energy code. Mr. Parikh noted the time of sale provision.

MM noted that the statewide code has been updated. Mr. Parikh said that the energy star standards and state energy code are fairly comparable. They are nowhere near Passive Haus standards. Let's move towards the most effective solution for new construction. He noted that new construction is cost-driven. Envelopes are not addressed sufficiently.

DM asked who considers energy standards for new development. SG responded that there are no specific criteria under the zoning code or under the Inspection Services codes. He noted that large projects go to the Technical Review Committee wherein a representative from BED is always present. He also noted the filing requirement for zoning permits relative to the state energy standards. DM said it sounds like perhaps we should be asking the questions.

DL said he'd like the Board to play a more active role relative to energy standards, such as we've done with stormwater management. There are things the Board could do to support improved energy compliance. MW, does that mean the applicants will need to provide their HVAC and building engineering plans? DM said he'll need some education so that he knows what to be asking for.

Mr. Parikh noted BED's energy efficiency incentives. DL suggested that the BCB could be a partner in supporting BED's standards.

JS noted the amount of time and effort it took to get stormwater to where it's at.

DM said we have a role to play in better enforcement of the code.

Mr. Parikh said if the energy code is exceeded, BED will incentivize taking those steps.

MM said this is a big thing worthy of talking about. Education for the Board is an early step. Also, there needs to be a nexus between the Board's roles in development review and the energy code. It would be a building code insofar as enforcement is concerned. DL said that building codes are enforced. The weakness is with enforcement of the energy code. We may want to pursue a stretch code – basically above and beyond the base code. DL said he'd be happy to provide information to the Board. We can keep track of what Jennifer Green is doing and support her work with energy labeling.

SY requested information on incentives. Mr. Parikh said the incentives are project-specific.

MM said we've gotten in the habit of asking about soils and geotech. We can do something similar for energy efficiency.

Mr. Parikh mentioned the Passive Haus conference he recently attended in Germany. kWh and BTU reductions. He suggested that the BCB ask applicants if they have contacted BED.

DM mentioned an info sheet put together long ago for applicants to give them an idea of what to expect when meeting with the BCB. That will need to be updated.

MW, let's invite Jen Green for a discussion with her.

### **Adjournment**

The meeting adjourned at 8:30 PM