

Bolton Conservation Commission
Minutes of Meeting
January 20, 2004

PRESENT: Karen Augustine, Scott Duhaime, Ed Englemann, Bill Fateiger, Rose Stanley, Lori Stephenson and administrator Carol Gumbart

1. Administrative Discussion. Lori Stephenson announced that she will not continue as the Chair of the Commission. Ms. Stephenson said that she would like to nominate Bill Fateiger for Chair. Ms. Stephenson agreed to be the Vice Chair and remain on the Commission for another year. After discussion, a motion was made by Lori Stephenson, seconded by Scott Duhaime to elect Bill Fateiger as Chair. VOTE: Aye, unanimous.

2a. Attendance at Up Coming Meetings Bill Fateiger said that he will attend the Department Meeting to discuss accomplishments of 2003 and goals for 2004; Rose Stanley said that she will attend the ZBA meeting on the Bolton Manor if needed; and Bill Fateiger said that he will attend the Planning Board meeting on February 28.

2b. Parks and Reg. Marty Fitzgerald couldn't make meeting, so it was postponed to a later date

2c. Boy Scout Camp. Commission recommended they file an RDA for water tank. Commission gave approval to have them fell dead pine tree on frozen pond.

3. Randall, 170 Long Hill Road and Henry, Map 4E, Parcel 33 Long Hill Road Bill Fateiger reported that he and Lori Stephenson met with Mr. Randall as discussed last meeting and that approximately 30 feet of a drainage swale was filled in on Duane Henry's property, but that they did not go onto the property in question as they hadn't contacted Mr. Henry. Mr. Fateiger said that a wetland above the Henry property feeds a swale and is connected to the fire pond below that then drains into a wetland. Mr. Fateiger said that the swale was clearly filled in. Mr. Fateiger said that the water table is likely perched due to bedrock or clay soils and that the soils were clearly hydric. Mr. Fateiger said that he left a message with Brandon Ducharme to inquire about the wetland and with his return phone call did not discuss the matter. Rose Stanley recommended calling the Henry's directly and to bring the issue up delicately.. Ms. Stephenson recommended telling the Henry's that a concern was raised not a complaint. Ed Englemann recused himself from discussion as a Commission member. Mr. Englemann then offered a comment as a resident saying that his wife said that Mr. Henry was told by Ducharme and Wheeler, Inc., that they thought the property is not buildable. Mr. Fateiger agreed to give Mr. Henry a courteous call about the matter to inquire on his intentions with the property.

4. Budget Discussion Carol Gumbart passed out the "2004 Capital Planning Proposal for Bolton" a document prepared by the Board of Selectmen, Advisory Committee and the Long Range Planning Committee. Rose Stanley said that this was presented at the January 2004 Town Meeting and recommended reviewing the contents. After a brief discussion it was agreed that Scott Duhaime would again try to bring a speaker in from Easton to discuss financing land acquisition projects. Once a date is arranged other Boards and Committees, including Selectmen and Advisory, will be invited to the presentation.

5. Northwoods Planning Board Decision Carol Gumbart announced that she received a copy of the Planning Boards decision for the Northwoods FOSPRD Subdivision. Ms. Gumbart noted

that the decision did not include the Commissions recommendation for requiring bounds to demarcate the Open Space. Mr. Fateiger said that perhaps the bounds are shown on the plan and it was not needed in the decision. Ms Gumbart agreed to review the plans and speak with Russ Karlstad on the Planning Board if they were not shown on the plans.

6. Danforth Brook Subdivision Carol Gumbart said that Common Development asked her whether the Commission would accept a monetary gift for the trees and shrubs needed along common driveway #3 instead of Commons planting them in the spring. The Commission agreed that a gift was acceptable but that it should include the cost of labor. Ms. Gumbart will review the number of species specified and Bill Fateiger will help establish a price for the gift.

7. CCR Development, 139 Nashaway Road and Common Driveway (112-486) Bill Fateiger opened the public hearing on a Notice of Intent (NOI) filed by CCR Development. Denis Cleary, President and attorney for CCR Development was present. Mr. Cleary said that since he met informally with the Commission at their last meeting he had submitted an escrow for the outstanding work on the driveway and seeding and Carol Gumbart had signed his occupancy permit as permitted by the Commission. Mr. Cleary said that the reason he is before the Commission is because the old Order of Conditions (OOC) expired and that it is his desire to continue with the same OOC to finish up the work. Mr. Cleary noted that the hearing notice included work necessary to complete the project. Mr. Cleary said that the main items include crown a section of the common driveway; seeding and cleaning of the stone swales. Mr. Cleary again reiterated that they would like to proceed with similar conditions on the project. Mr. Cleary said that the findings in that OOC were comprehensive and that the bond money will be kept until the work is complete. The Commission made it clear that since his permit expired, we have the right to modify the OOC. The Commission noted that they have learned more about common driveways. Rose Stanley said that the Commission may want to consider requiring the applicant to pave sections of the driveway that are now gravel. Bill Fateiger stated that a site walk is warranted. Scott Duhaime agreed to be the project manager and after the arrival of Vera Rodriguez the applicants project supervisor arrive, a site visit was scheduled for Monday, January 26, 2004, at 7:15 a.m. Ms. Gumbart agreed to provide Mr. Fateiger with a copy of the new NOI and the old OOC. With the consent of the applicant the hearing was continued to February 3, 2004, at 8:00 p.m.

8. K & L Holding LLC., (between 291 and 329) Hudson Road (112-444) & WRPD Bill Fateiger opened the continued hearing. Clare Burhoe, Esquire of Lawson and Weitzen was present to represent the applicant and Brian Butler of Oxbow Associates, Inc. and Yvonne Gonzalez, Town Counsel, were present at the request of the Commission. Carol Gumbart said that she had provided a draft Order of Conditions (OOC) to all parties. Ms. Burhoe said that they would like the OOC to say "Final Amended" and the Water Resource Protection District (WRPD) "Final Special Permit". The Commission and representatives present proceeded to review the draft OOC. Some of the issues discussed included what plans to reference in the Final Amended OOC. With the consent of all the parties the discussion was suspended for the Commission to open another continued hearing. Discussion was resumed and Ms. Burhoe asked the Commission if they would consider a letter of credit ("LOC") from a reputable bank instead of the bank check as the amount for the driveway escrow was likely to be considerable. Ms. Gonzalez said that she will provide the Commission with some information about letters of credit. The Commission agreed that the escrow or LOC amount need not include the CR area, just the riverfront and buffer. After the Commission completed their review of the draft OOC they discussed the draft Conservation Restriction as amended by Joel Lerner, the Director of the

Division of Conservation Services. It was noted that access for fishing should not be included, and Ms. Gumbart agreed to contact Mr. Lerner to discuss. It was agreed that the Commission will continue to move toward issuing an Final Amended OOC and WRPD Final Special Permit and not wait any longer for the Massachusetts Natural Heritage and Endangered Species Program to be in touch. With the consent of the applicant's representative the Commission continued the hearing to February 3, 2004 at 8:30 p.m.

9. Curran/Bow House, 32 Rocky Dundee Road (Lot 5) (112-439) Bill Fateiger opened the continued hearing on the request to amend the Order of Conditions (OOC). Brian Curran was present for the hearing as the proponent requesting the amendment. Mr. Fateiger said that he visited the site and took some photographs. Mr. Fateiger said that you can see in the photos that pine trees are present on the site and show the prior edge of field and that the area where the Curran's propose to extend the lawn is overgrown field. Mr. Fateiger said that noticed that equipment has gone into the buffer zone already. Karen Augustine concurred noting that she had observed this too. Ms. Augustine recommended that the Curran's delineate the lawn with trees and boulders. Ms. Augustine recommended that shrubs be planted on the breakout slope of the septic system for restoration. The Commission agreed that an amended OOC can be drafted to include a description of the change approved and a revised plan dated with the Curran's signature. Ms. Augustine said that she and Scott Duhaime accompanied Mr. Curran on a walk of the proposed trail access and decided that the trail on Mr. Curran's land was unsuitable, and is not the only access point to open space from Rocky Dundee Road. A motion to close the hearing on the request to amend the OOC was made by Bill Fateiger, seconded by Ed Englemann. VOTE: Aye Unanimous. It was then noted by Scott Duhaime that we do not want a trail on this property.

10. Vinger Quit Claim Deeds Yvonne Gonzalez, Town Counsel was present to provide an oral review of the Quit Claim Deeds for the Vinger property including parcels 1, 5 and A. Ms. Gonzalez said that all of the rights reserved by the Grantor have been assigned to the Town with to access to Lots 1, 5 and A, shown on the deed plans. Ms. Gonzalez said that she will provide her opinion in writing.

11. Fox Run Easement Deeds Yvonne Gonzalez, Town Counsel was present to report on the status of the Easement Deeds in the Fox Run Road area. Ms. Gonzalez said that the Deeds for Edward Plante 151 Kettle Hole Road and Mark and Laurie Sprague, 149 Kettle Hole Road have all been recorded at the Registry referencing the trail easement. Ms. Gonzalez said that the amendment to the Conservation Restriction and Trail Easement between 90 and 98 Fox Run Road are still pending.

12. Melone, 40 Corn Road (112-455) Yvonne Gonzalez was present to provide the Commission with an update on the status of the dismissal of the Harris appeal. Ms. Gonzalez said that due to a glitch at the Department of Environmental Protection (DEP) the project analyst, Joe Bollino had not received the request to amend the Superseding Order of Conditions. Ms. Gonzalez said that she continues to work toward getting this resolved so that she can file the stipulation of dismissal.

13. Purchase and Sale Agreement Braman After a brief discussion of the Purchase and Sale (P&S) Agreement, a motion was made by Bill Fateiger, seconded by Lori Stephenson to sign the P&S as drafted by Town Counsel.

14. Minutes. A motion was made by Bill Fateiger, seconded by Lori Stephenson, to accept the minutes of January 6, 2004. VOTE: Aye, Unanimous. A motion was made by Scott Duhaime, seconded by Ed Englemann, to accept the minutes of December 16, 2003. VOTE: Aye, Unanimous.

15. Administration Ed Englemann requested that he be added to the Town Secretaries distribution list. Bill Fateiger requested Mr. Englemann's email address.

16. Boy Scout Camp. Conservation Commission recommended the Boy Scout Camp file an NDA for water tank. In addition, The Commission voted to give approval to fall dead pine on frozen pond

17. Parks & Recreation, Pond cleanup. Ed Sterling & Marty Fitzgerald appeared before the Commission to discuss pond cleanup at the town beach. It was recommended that they file a Notice of Intent (NOI).

Respectfully submitted,

Carol A. Gumbart
Conservation Administrator