

Conservation Commission
Meeting Minutes
June 26, 2002

Open meeting/introduction

The meeting was opened by Cassandra Koutalidis, chair, at 7:25 pm. Attendees were Conservation Commission members, Elisabeth Miley, John Reinhardt, Leslie Brayton, Delia Kaye, Michael Fager, and Lisa Brukilacchio (new member, replacing Rachel Evans), Associate Members, Rachel Evans and John Buchheit, and the Agent, Anne Phelps. Also present were, Lyndsay Hazen (GroundworkSomerville), Ron Witte (neighbor, Lincoln School), Gina Foglia (Somerville resident and business owner), Marian Berkowitz (Lincoln Parkway resident), Sarah Whiting (Somerville resident).

Introductions were made. The minutes of the CC (special, budget) meeting on May 8 were reviewed and discussed.

Vote: Elisabeth moved to approve the amended minutes of May 8. CK seconded. All approved.

The minutes of the CC meeting of May 22 were reviewed and discussed.

Vote: Elisabeth moved to approve the amended minutes of May 22. MF seconded. All approved.

The agenda was accepted, and the CC agreed to discuss Lincoln School under "Old Business" first, since 2 members of the CC needed to leave early.

Old Business

Lincoln School: At the May 22 meeting, the CC discussed at length the proposal to perform a land swap for land on which to build a new Lincoln School. Cassandra said the CC talked about the quantity and quality of the land and whether the park was being split, and the CC voted on whether the CC approved the taking of this parkland.

Since then, some of the CC have questioned whether the CC voted on the "correct terminology." CK talked to Alexandra Dawson, attorney for MACC about the EOEA policy versus the Article 97 amendment to the MA constitution, the latter of which calls for a 2/3 majority vote from legislative groups, and the former which requires a unanimous vote of approval by the CC. The CC just received copies of Jennifer Soper's (DCS Regional Planner) comments in response to the Lincoln Park MEPA filing (attachment 1), which refer to an Article 97 requirement for a 2/3 majority vote of approval by the CC, the Recreation Commission, and the legislature. Although EOEA cannot force municipalities to conform to its policy, it can recommend against conversion of parkland, and deny grants to the city if it fails to abide by EOEA's policy regarding Article 97 lands.

CK said that, in talking with her on the phone, Alexandra Dawson provided some phrasing on the question of the taking of Lincoln Park that could be used for a new vote on this issue: Does the CC agree that the parkland [which would be taken for the new school] is surplus and no longer needed, if the proposed other land is substituted. Alexandra said the CC can decide on the quality of the parkland and the meaning of

“surplus” for this vote. CK said, of course the land is not surplus, but there is an offer to replace it. CK said the question for her is whether the CC agrees that the parkland is surplus and no longer needed, if the proposed other land is substituted. CK proposed that the CC discuss whether or not that question was answered by the original vote (during the May 22 meeting). If so, then what the CC did originally stands. If the CC decides it was not answered, CK would entertain a motion to reconsider the original vote.

Michael said that he was told by Denise Provost that to vote again, the CC needs to approve a motion to reconsider the original vote.

Michael moved to reconsider the original vote. John seconded. Discussion followed.

Michael he thought the CC should reconsider because there was confusion in the CC’s language in the original vote as to whether the parkland is surplus. He believes the CC was clear as to whether they were voting on “no net loss” and whether the park was “surplus,” but since that particular language was not incorporated into the motion, the CC should re-vote the issue. John said that, given the level of confusion in the media reports as well as on the city’s part (as represented before the Board of Aldermen), a reconsideration, just to clarify it, is worthwhile.

EM said she was in favor of reconsideration for the same reason as Michael, and because she thinks the CC was tired, and the motion was a little messy, and it’s worthwhile to redo the vote and clear the clutter out of it. Also, she said, the fact that it’s Land and Water Conservation Fund (LWCF-the land was renovated with LWCF funds) parkland is an important piece of information that the CC was missing at the time [of its earlier decision]. That means the land is protected in perpetuity. EM’s said that changed her opinion about the whole situation. At the time of the first vote, EM thought this was city land and the city had the right to do what it wanted. She said she felt the pressure that a new school was more important than the park staying the way it is. CK asked if there were other instances of takings of LWCF lands. EM said CK had told her that Edgerly was also LWCF parkland, and that it was a really messy process that didn’t go through the way it was. EM said she didn’t know how typical that was, but she said two communities nearby were going through the same process, and it was so difficult they had almost given up; Chelsey was one example and Everett was the other.

Rachel said she was disappointed there was to be a second vote, because she was not able to vote this time. She said she and Michael both said that what they were voting on was whether the land was surplus, and that thought kind of got lost in later discussion. She said she thought the city was asking the CC to vote on whether the CC approved of the conversion. She said if she were voting today, she would still be strongly opposed to this. Anne noted that RE abstained at the earlier vote. RE said she abstained in the earlier vote because she thought there wasn’t enough information. She said she thought the CC was being rushed to a decision.

EM said she felt the same way, and that it wasn’t clear to her that they were discussing whether the land was surplus.

DK said she agreed, and that she thought they were voting on whether they approved the school or not, and whether there would be the same amount of parkland.

CK said she thinks the previous vote did consider whether the land was surplus.

Vote on whether to reconsider the [original] vote: 4 in favor of reconsideration; Leslie opposed – she said she thinks the CC covered this ground. Lisa B. and CK abstained.

Michael said he has drafted three motions (attachment 2) related to this and passed around copies for all to read. DK asked Michael if these were things he thinks the CC should have voted on at the last meeting, and he responded, “Yes.” Michael said he got the motions from the EOEA’s policy statement, reflected in Lisa Mead’s memorandum to the CC. Elisabeth said the CC was asked to approve the conversion, but that the state policy asks only that the CC vote on whether the parkland is surplus, not whether the CC approves the land swap. CK asked again, whether Michael would agree that the land (they want to take for the school would be no longer needed if this other land is substituted for it. CK said that covered the “surplus” part, for her.

Michael said, no; that it’s even more than that. Michael said if he were going to purchase this, the site of the proposed school has a much greater value, because it’s not up against the railroad tracks; there’s lots of reasons he can say that present school site does not have the value of the site on which the city proposes to build the new school. EM said she agrees, but we did not get into fair market value in the last meeting.

CK, quoting from EOEA Guidelines (attachment 3), II. Conditions for Disposition Exceptions read into minutes, there’s also, “**...the value in use of proposed use,**” so its not just the fair market value.

John said he still isn’t sure what is meant by Michael’s first two motions, by “no net loss” and “surplus.” He said the whole thing [for him] was the value of the parkland; the value of the parkland with the new proposed school is less than the value of the present parkland.

Michael said he wrote the motions the way he did because in EOEA policy, the first paragraph states that the goal is to ensure no net loss of Article 97 lands. He said that means a simple arithmetic exercise. John said he can agree with that. Then, Michael said, the EOEA policy further states that “The municipality must obtain a unanimous vote from the municipal Conservation Commission that the Article 97 land is surplus to municipal, conservation and open space needs.” That’s why he wrote the second motion.

Elisabeth read from the MACC handbook, Section 10, Land: Management and Stewardship, p. 102, under 10.7, **Threats to Conservation Land**, and 10.7.1 **Sale or Conversion to Other Municipal Purposes and The Conservation Commission Process**, regarding the meaning of “surplus”. The handbook says, “The question posed when there is a proposal to take land out of conservation use is not whether the land is need[ed] for other purposes, but simply, **is it surplus to the community’s and Commission’s needs.**” EM said since the land is LWCF parkland, it is conservation

land. EM says we need to ask ourselves, is this park extraneous to recreation in Somerville.

CK asked, with or without mitigation? After discussion, EM said she would take it to be without mitigation, the stand-alone condition.

CK says this is not what Alexandra Dawson said. It's not just alone; park will be substituted. Delia said she thinks it is not a taking, because land is substituted for it. Michael said it is still a taking. But, you have to follow a certain procedure (ex., 2/3 vote of legislature, plus meeting requirements of EOEA) to allow the taking.

EM said hard because we all think the new park is inferior. CK said she thinks the fabric of the park is somewhat rent. Leslie said the kids who use the park are the primary users. She thinks the new school, which is awful for the neighbors, is a much better place for the kids. EM said she thinks the new park raises some safety concerns for the kids.

Cassandra asked if any of the neighborhood residents in attendance wanted to speak. Gina Foglia said there were some options if talking about the new location for the school and the fact that there needs to be a new school built for the students. The school could be re-built on the same site. The school administration didn't allow the architects to evaluate that option. If you look at the quality of the exchange, kids need a new school, but they also need a quality park. Gina said the school should come out of the discussion. She said the city could get funding for renovation. Leslie said she thought the new park would be better for the kids. She thought the new design for the park met the children's needs better. EM said she thought, with the present configuration, the school sheltered the kids in the park from the noise and traffic of Washington Street.

After some discussion about which of Michael's written (attached) motions the Conservation Commission should address, it was agreed that all would be voted on, but number 3 should be re-worded, and the order of the motions changed.

Votes on Lincoln Park Article 97 Land Transfer

Michael moved to vote (on the amended #3) : That we the Somerville Conservation Commission, find that Lincoln Park, Somerville's largest public park and open space, is an area of significant public recreation in Somerville. John seconded. No discussion.

Vote: Unanimous in favor.

Michael moved to vote: That we, the Somerville Conservation Commission find that the portion of Lincoln Park subject to the proposed Article 97 land transfer is surplus to municipal, conservation and open space needs of the City of Somerville. Elisabeth seconded.

Discussion: Leslie asked whether we were going to clarify what surplus is. John said we can amend the wording for clarity. Rachel said she thought the exact language important to use as is, because that wasn't done last time.

**Vote: 5 Opposed
2 Abstentions (Lisa B. and Leslie B.)**

Elisabeth left. Rachel suggested that the CC write a letter to the Bd. of Aldermen to explain the new votes.

Michael moved to vote: That we, the Somerville Conservation Commission, find that the proposed Article 97 land transfer in Lincoln Park will result in no net loss of parkland in Lincoln Park. Delia seconded. No discussion.

Vote: In favor: 1= Leslie

Opposed: 3 = John, Michael, Cassandra

Abstained: 2 = Lisa and Delia

Rachel said it should be a written decision [though she's not sure from what source the requirement comes]. Rachel said it should summarize the discussion from the meeting minutes and include the results of the vote. She also said she is concerned that Lisa Mead will think this procedure violates the open meeting law. It was agreed that Michael would write the letter with help from Rachel. CC agreed to defer further discussion until we reach place in agenda for discussion of open meeting law.

Leslie left at 8:50 pm.

Update 319 grant-Anne said that Thom Donohue is resigning, which could present problems for the grant. Thom is the only engineer at DPW, and the grant requires an engineer to sign off on the project, and someone new will not be familiar with the grant's history.

North Point DEIR comment letter-John R. has a response dated last Friday, to the comment letter he (and John B.) sent to MEPA regarding the North Point Draft Environmental Impact Statement. He read some of the letter, stating that "The proponent, as a successor to the B&M Railroad, may be responsible for proper functioning and maintenance of drainage systems relating to the previously licensed filling of the Miller's River/Creek. The proponent should consult with DEP, MWRA, and Somerville Conservation Commission."

IKEA update Anne met with Green and IKEA at OHCD. Ko conveyed Green's request for additional information, previously presented to the CC and to IKEA at the last IKEA hearing. The IKEA representatives said they would try to have the information to Green and the CC by this Friday. Rachel said that she had received a letter from IKEA saying the requested copy of the Response Action Outcome (RAO) for the proposed development site would be sent to the Conservation Commission. Rachel said she was available to review it.

Lisa B. said we should get a copy of the Mystic River Management Plan developed by Halvorsen – Gina F. will provide information so the CC can get a copy of the plan.

Administration

The CC decided to schedule a procedural meeting to discuss how to make meetings more effective. A tentative date of July 31st was set for the procedural meeting, at City Hall Annex, 7pm.

CK suggested we hear from Lyndsay, GroundworkSomerville(GS), who has been waiting a long time. Lyndsay said Groundwork is trying to collaborate with the Boys and Girls Club to plant a “Learning Garden” at the boathouse. Half would be learning plots and half individual plots. The garden would probably be in front of the boathouse. GW would get it going and oversee it. Michael said we need more specific information; the work could be in the buffer zone.

Open Meeting Law – Anne handed out copies of a memo from Lisa Mead on the Open Meeting Law, and reported that Ron Witte requested a copy of the CC meeting minutes through following the last (May 22) meeting. This request, and a follow-up letter he sent to state, resulted in calls from Lauren Enger at state and from Lisa Mead to try to clarify how best to satisfy the request. I said my policy had been to not release minutes until they were approved by the CC. Ms. Enger said that we should send minutes out in any form available as soon as requested. Lisa Mead said I could wait until minutes were approved, since that was my normal policy. The CC agreed, and said, until the minutes were approved, there was no “record,” officially.

Budget – Report & discussion postponed until next meeting.

New Business

Gracio Garcia (Gentle Giant Rowing Club) withdrew his NOI and sent drawings and a short description of the revised plan of work (attached). Sondra should be informed that anyone doing work around the boathouse should contact the CC before doing anything-including the garden proposed by GroundworkSomerville. The floating pier is work on land under water – it is within the jurisdiction of the CC. They must submit an updated NOI. Anne has already left messages for Gracio that a new NOI will be needed.

Planning Board (Aldersey Street development & others) developments – reviews

Anne said she’s getting an increased number of requests to review developments from the planning board, and needs some help to respond. Cassandra said she would help, and probably others would, too.

Anne reported that she set up a booth for the Community Fair at the High School, where the draft Community Plan was unveiled by Ezra Glen. She also reported briefly on the Mystic Watershed Team Meeting.

Meeting adjourned at 10:15 pm.

VI. Committees	8 min
A. Community Gardens	8 min
VII. Events	6 min.
A. ArtBeat2002 July 20	4 min
B. Biodiversity—please post species!	2 min.

Attachments

1. June 20, 2002. Memorandum from Jennifer Soper, DCS Regional Planner, to LeAndrea Dames, MEPA and Joel A. Lerner, DCS Director, regarding Lincoln Park Elementary School – EOE #12782.
2. Motions submitted by Michael Fager
3. EOE Article 97 Land Disposition Policy, Feb. 19, 1998