



# TOWN OF BURLINGTON

## *Conservation Commission*

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### **MINUTES OF May 10, 2018**

*Approved June 14, 2018*

**Members Present:** Chair L. Cohen, J. O’Riorden, E. LoTurco, G. Lima, I. Deb

**Members Absent:** Vice-Chair W. Boivin, K. Melanson

**Also Present:** Conservation Administrator J. Keeley, Assistant Conservation Administrator E. Coleman

#### **1. Call to Order**

L. Cohen called the meeting to order at 7:02 pm.

#### **2. Citizens’ Time**

No one spoke.

#### **3. Approval of Minutes – April 26, 2018**

A MOTION TO APPROVE THE MINUTES FROM THE APRIL 26, 2018 CONSERVATION COMMISSION MEETING WAS MADE BY E. LOTURCO. THE MOTION WAS SECONDED BY J. O’RIORDEN AND APPROVED (4-0-1; G. LIMA ABSTAINED).

#### **4. Continued Public Hearing – Notice of Intent – 3 Sycamore Street – Joseph Kranz – Demolish single-family dwelling & construct new single-family dwelling – DEP # 122-608**

Homeowner Joseph Kranz represented the application.

J. Keeley commented the department received the stamped plans, and E. Coleman had no issues.

No one in the audience spoke on this matter.

E. Coleman reviewed the findings and conditions.

A MOTION TO CLOSE THE HEARING FOR THE PROJECT AT 3 SYCAMORE STREET, DEP #122-608, WAS MADE BY G. LIMA. THE MOTION WAS SECONDED BY E. LOTURCO AND APPROVED (5-0-0).

A MOTION TO APPROVE THE FINDINGS FOR THE PROJECT AT 3 SYCAMORE STREET, DEP #122-608, WAS MADE BY I. DEB. THE MOTION WAS SECONDED BY E. LOTURCO AND APPROVED (5-0-0).

A MOTION TO ISSUE THE ORDER OF CONDITIONS FOR THE PROJECT AT 3 SYCAMORE STREET, DEP #122-608, WAS MADE BY G. LIMA. THE MOTION WAS SECONDED BY J. O'RIORDEN AND APPROVED (5-0-0).

A MOTION TO REQUIRE A \$3,500 PERFORMANCE BOND FOR THE PROJECT AT 3 SYCAMORE STREET, DEP #122-608, WAS MADE BY I. DEB. THE MOTION WAS SECONDED BY J. O'RIORDEN AND APPROVED (5-0-0).

**5. Continued Public Hearing – Notice of Intent – 5 Burlington Mall Road – Burlington S&S, LLC – Demolish Sears Auto Center – construct multitenant retail/restaurant building – DEP# pending**

No testimony was taken on this matter.

*This matter was continued to the May 24, 2018 Conservation Commission meeting.*

**6. Continued Public Hearing – Erosion & Sedimentation Control Permit – 5 Burlington Mall Road – Burlington S&S, LLC – Demolish Sears Garden Center, construct pocket park & make parking lot & sidewalk improvements**

No testimony was taken on this matter.

*This matter was continued to the May 24, 2018 Conservation Commission meeting.*

**7. Public Hearing – Request for Amendment to Order of Conditions – 20 Corporate Drive – Burlington Centre Twenty Corporation Owner LLC – Temporarily expand limit of work – DEP #122-576**

Developer Christopher Chandor, Jr. of The Davis Companies, and engineer Nate Shields of Tetra Tech presented the application.

Mr. Chandor explained the request to temporarily expand the limit of work to allow for the scissor lift/scaffolding to get behind the building. Some trees will be removed, and the roots pulled out to make the ground level. Also some trees are bent from the winter, which are impeding on construction, and need to be removed. Mr. Shields explained there are 25 trees greater than 3-inch diameter, and the plan is to plant 40 trees and 25 shrubs.

J. Keeley explained this is exempt from the local bylaw because this is a friendly 40B project. He recommended replacing the birch species with something stronger such as oaks and maples because birch is easily bent by the winter. Also, he requested double erosion control, silt fence and straw wattles, to exclude amphibians from getting into the work site.

The Conservation Commission commented that pulling trees out by the roots may affect the underground root system of the surrounding trees, and requested the new trees are actively maintained to ensure their survival.

E. Coleman reviewed the findings and conditions.

A MOTION TO AMEND THE ORDER OF CONDITIONS FOR THE PROJECT AT 20 CORPORATE DRIVE, DEP #122-576, WAS MADE BY G. LIMA. THE MOTION WAS SECONDED BY E. LOTURCO AND APPROVED (5-0-0).

## 12. Administration

**a. Planning Board comments: None**

**b. Subcommittee & Staff Reports:**

Open Space and Recreation Plan

J. Keeley noted a consultant has been hired. There will be five subcommittee meetings, along with public forums and other outreach. This is a Conservation Commission subcommittee, and J. Keeley recommended appointing members from the Planning Board and Recreation Commission. L. Cohen appointed J. O'Riorden to the subcommittee, and he agreed to reach out to the Planning Board and Recreation Commission chairmen. J. Keeley will reach out to W. Boivin.

**c. Upcoming meetings: May 24, 2018 & June 14, 2018**

**e. Other Business:**

Community Preservation Act

L. Cohen presented the Community Preservation Act to the Board of Selectmen on Monday, April 9, and on Monday, June 11 it will be presented to the Recreation Commission. The BACC (Burlington Area Chamber of Commerce) is the process of setting up a meeting to hear this. He presented the act to the commission (see Appendix A). The commission was generally in favor.

Town Meeting – May 14, 2018

Item of interest are: reconstructing the Clark and Reid site (which in an environmentally sensitive area) for DPW, reconstructing Overlook Park for Recreation, and Burlington will be connecting to the MWRA. The tax on non-reusable bags has been postponed to September Town Meeting.

A MOTION TO ADJOURN THE MAY 10, 2018 CONSERVATION COMMISSION MEETING WAS MADE BY G. LIMA AT 8:00 PM. THE MOTION WAS SECONDED BY I. DEB AND APPROVED (5-0-0).

*Minutes respectfully submitted by:  
Noelle Judd, Recording Clerk*

## APPENDIX A

### Community Preservation Act for Burlington

(Conservation Commission Statement to April 9, 2018 Board of Selectman Meeting)

This presentation is an introduction to the Community Preservation Act (CPA), a State Program that could help Burlington preserve open space and historic sites, create affordable housing, and develop outdoor recreational facilities. If adopted, Burlington would receive CPA funds from two sources - a local property tax surcharge of up to 3 percent on both residential and commercial real estate and a yearly distribution from the state CPA Trust Fund. To date, 172 municipalities in the state have adopted CPA with more than 70 electing the maximum 3% surcharge rate.

Sixty percent of the State's population lives in a CPA community. Statewide over \$1.53 billion has been raised to date for more than 9,900 projects. More than 4,800 affordable housing units have been created; an additional 8,200 units have been supported. About 27000 acres of open space have been preserved and over 4,750 appropriations have been made for historic preservation projects. Over 1,950 outdoor recreation projects have been initiated. Most towns 20 miles west and south and some towns north of Burlington, most of Essex County and the south shore have all become CPA communities.

#### How State CPA Trust Fund Monies Get to Burlington

If adopted, Burlington would receive a check each November from the State Community Preservation Trust Fund, which is not subject to the annual State budget and is not dependent on moving forward with any particular project. The State collects between \$24 million and \$53 million per year based on the amount of revenues collected and the number of communities participating in the program from real estate transactions at the state's Registries of Deeds.

In FY 13, 14 and 15, the State added \$25, \$11.4 and \$10 million to the Trust Fund. Because no surplus funding from the State was available in 2016 and 2017, the reimbursement percentage fell to 20 percent and 17.2 percent in those years. In November of 2018, communities with less than a 3 percent charge will get 11.5 percent; those with 3 percent may get another 2 percent match above this amount.

Proposed legislation "An Act to Sustain Community Preservation Revenue" (H. 3662) has been filed that would provide for a higher CPA Trust Fund distribution (possibly between 30 and 50 percent) for all 172 CPA communities from increased fees on real estate transactions, which have never been increased since inception 18 years ago. The proposed law has been co-sponsored by 121 legislators, including State Representative Ken Gordon and State Senator Cindy Friedman. The bills were reported favorably out of the Joint Committee on Revenue in March 2017, and now sits with the House Committee on Ways & Means.

The State distributes the money each fall in 3 rounds. Eighty percent (80%) of the total revenue collected that year is paid out in round one, and Burlington would receive their percentage match to funds raised locally. The remaining 20 percent is distributed to communities to the 70 communities with a 3 percent surcharge.

#### Type of Projects That Might Apply to Burlington

The Community Preservation Act would require Burlington to set aside at least 10 percent of the monies in a reserve account for categories of open space/recreation, historic preservation, and community housing. The remaining 70% of the funds are undesignated, and can be used for any allowable project. This gives Burlington flexibility to determine its own priorities. Up to 5 percent of funds may be used for the administrative expenses.

Our CPA funds may be spent on the acquisition of land, creation, and preservation of open space, community housing and active and passive / recreation facilities. Funds may also be used for historic preservation.

Housing built with CPA funds may be offered to those persons and families whose annual income is less than 80 to 100 percent of the area-wide median income, as determined by HUD.

For recreation, projects may include creation or rehabilitation of community gardens, trails, noncommercial youth and adult sports, parks, athletic fields and playgrounds (even new equipment). CPA funds may not be spent on ordinary maintenance or annual operating expenses; only capital improvements are allowed. Sidewalks and artificial turf part of a field are not eligible for CPA funding.

Our next door neighbor, the Town of Bedford has used CPA funds to design and construct athletic fields near their Town High School and reconstruction of tennis courts near their middle school, reconstruct an historical stone wall and preservation of gravestones at their Old Burial Ground, purchase properties for open space purposes, install a fire protection system in an historic property, complete the final design for the extension of the Minuteman Bikeway, hired a grant writer/housing consultant to work with Bedford Housing Trust, procure services of housing consultant for community/affordable housing purposes, construct a modern play structure at the Town Center, design of mechanical, electrical and plumbing systems for their Town Hall and feasibility study for a boardwalk to span a large wetland.

#### **How Communities Supplement CPA Funds**

In addition to the local surcharge on real estate taxes, some CPA communities also supplement project cost with funds from general obligation bonds. To date over 79 communities have issued bonds for 182 different CPA projects, raising roughly \$310 million to add to their CPA funds. State and Federal grant programs are also used.

#### **Exemptions Available to Burlington**

Burlington can also exempt low-income persons and low / moderate-income seniors from the CPA surcharge. Over 90 communities have done so by using an insert waiver in the property tax bills to be filed by April 1st.

Another common exemption is an option to exclude the first \$100,000 of taxable value automatically applied on residential real estate tax bills. A less common exemption is one for the first \$100,000 of taxable value of class three commercial, and class four industrial properties. Burlington may make changes to these exemptions at any time with approval of Town Meeting and subsequent voter approval. Burlington may opt out after 5 years.

#### **Implementation of Burlington's Community Preservation Committee**

If CPA is implemented, Burlington then creates a local Community Preservation Committee (CPC) with representation from Conservation Commission, Planning Board, Historical Commission, Housing Authority and Recreation Department. Four additional optional "at-large" members may be appointed by the Moderator or Selectman.

The CPC conducts studies of our needs with regards to community preservation and holds at least one public hearing annually. The CPC accepts and reviews project proposals from the community. The CPC then votes on a slate of projects to recommend, along with the costs, and forwards these to Town Meeting for action.

#### **How Burlington Adopts the Community Preservation Act**

Burlington would adopt CPA through Town Meeting approving a ballot question or 5 percent of voters requesting a ballot question. In either case, a simple majority of the voters in Burlington must approve CPA. At least 35 days must pass before a regularly scheduled town election and at least 60 days before the next regularly scheduled state election to have CPA on the ballot. The actual vote might take place one year from now. Between now and then, I propose that interested parties assemble, educate and promote the benefits of the Community Preservation Act.

#### **Summary**

The Community Preservation Act is not just another tax. For our residents, it is a steady funding source for preserving and enhancing our community's character and quality of life. Burlington residents who can least afford it, will pay either no surcharge at all through a low income exemption or a low income / moderate income senior exemptions. We can elect to be sensitive to smaller real estate holders through an exemption of the first \$100k real estate value.

As a vibrant business community, Burlington competes with towns like Waltham, Lexington, Cambridge and Newton, who have implemented the Community Preservation Act without negative consequences. Large retail is changing before our eyes. Business now compares Burlington to other towns in quality of life and amenities offered.

The public participation feature gives our residents a say in which projects are important with control over all spending. CPA can be used for a bike trail, a pull-off access for the Landlocked Forest off of Rt 3 South, a hiking path, a dog park, a boardwalk through a wetland resource, a softball field, preserving historic homes and for affordable housing. The benefit of having these funds available for open space/recreation, historic preservation and affordable housing should be evident to anyone who cares about these issues in our community.