

PUBLIC WORKS COMMISSION MEETING MINUTES

Pursuant to the notice filed with the Town Clerk, a virtual public meeting of the Public Works Commission in accordance with the Commonwealth of Massachusetts Executive Order of March 12, 2020 suspending certain provisions of the Open Meeting Law was held at 4:00 p.m. on Wednesday, March 1, 2022. This meeting has been properly noticed with the Town Clerk and has been recorded.

PRESENT:

Commissioners:

Jef Fasser
David DeLong
Andrea Solomon
James Terry
K.C. Winslow

Staff:

Alan H. Cathcart, Director
Erik Shaw, Assistant Highway and Grounds Superintendent
Justin Richardson, Assistant Town Engineer
Jeffrey A. Murawski, Water and Sewer Superintendent
Nelson Mui, Management Analyst
Bob Hill, Management Analyst
Melissa Simoncini, Environmental Services Program Administrator
Anna R. Trout, Administrative & Special Projects Coordinator

Other:

Robert Hilsinger (League of Women Voters Observer)
Karlen Reed, 83 Whit's End
Mark Gailus, 62 Prescott Road

A: ACTION ITEMS

A-1 through A-3 - The meeting was convened at 4:00 PM. by Commissioner Fasser. Attendance roll call of Commissioners was made as follows: David DeLong, Aye, Andrea Solomon, Aye, James Terry, Aye, K.C. Winslow, Aye and Jef Fasser, Aye.

The meeting minutes from February 9, 2022 were approved with correction provided by roll call: David DeLong, Aye, Andrea Solomon, Aye, James Terry, Aye, K.C. Winslow, Aye and Jef Fasser, Aye.

Director Cathcart reviewed the PWC meeting calendar. He explained that today's meeting will include a general review and discussion of proposed Town Meeting articles of direct interest to the PWC. Actual positions and any formal actions will be entertained at the next Public Works Commission meeting

scheduled on April 13th. An annual Water/Sewer rate hearing is planned for the May 11th meeting and a Solid Waste/Recycling rate hearing has tentatively been scheduled for the June 8th meeting.

While not on the PWC calendar, the Select Board has scheduled a meeting on March 14th, to review a number of transportation issues. A representative from the Transportation Advisory Committee will be presenting issues they have identified at this meeting.

D: DISCUSSION/ACTION ITEMS

D-1: 2022 Town Meeting Articles - Review

Article 30 – Scenic Roads General Bylaw.

This article is sponsored by the Historic Commission and has recently received support from the Planning Board. It is of particular interest to the Public Works Commission as it encroaches into the authority and long-standing role of the commission, which serves as the Towns “roads commissioners”.

Commissioner Fasser explained that this bylaw pertains to stone walls and trees that are within the public right of way. It does not place any controls on trees or stone walls on private property. At the January Public Works Commission meeting with participation by the Town Planner and Historical Commission, it was pointed out that the Public Works Commission would be involved with the development of rules and regulations, should this article pass. The article identifies the Planning Board as the authority that would be responsible for promulgating and enforcing these rules and regulations.

Commissioner Winslow asked what protections are currently in place with regard to stone walls along scenic and historic roads. Director Cathcart explained that the existing Roads policy, put in place back in 1994 under the direction of a task force established through the Select Board, includes guidelines for such protection. The framework for the Roads Policy was formally developed by a Road Management Advisory Committee. The policy received the support of the Select Board and was presented to the Public Works Commission for administration. In 1999, the Public Works Commission amended this long-standing policy to recognize design interests relating to a growing cycling community that also utilizes the public right-of-way.

The most recent advancement of the Scenic Roads Bylaw has been fueled by increased concern that private development is having on stone walls and the historic character of certain roads in Concord.

If the structure such as a stone wall is located within the Town Right of Way, and a private party is interested in modifying or removing this structure to allow for improvements to the adjacent private property, they are required to obtain a street opening permit, which is vetted or reviewed through CPW’s Engineering

Division. Justin Richardson, Assistant Town Engineer, explained that when an application for a Right of Way Permit is received, the Engineering Division evaluates the proposal with consideration of implications with regard to stone walls or trees are reviewed.

Commissioner DeLong asked for clarification about what the Commission is being asked to do with regard to Public Work's position on this matter. Commissioner Fasser responded that the way the article is written, it asks Town members if they would like to see a committee formed to come up with the rules and regulations for a Scenic Roads Bylaw. The Public Works Commission would need to decide if it would like to take a position in support of the article, if not, or if it wishes to take no action.

Director Cathcart explained that despite what has been volunteered by its advocates at a number of different outreach sessions, the idea and interests in advancing a Scenic Roads Bylaw in Concord is not new. It has been entertained on several different occasions within the past forty years, however, until now, it never received sufficient support to merit Town Meeting action. Commissioner Solomon added that because Public Works had been more involved in the early stage of conversation, they had been able to point out the redundancy of this concept.

Commissioner Solomon explained that starting in 1994 the Roads Management Advisory Committee said they didn't think Concord needs a Scenic Roads Bylaw because a much broader vision would be more beneficial. From there the Roads Policy was developed which clearly protects trees, stone walls and all considerations for all the roads in Concord. This article appears to be redundant, repeating some of those same guidelines for very specific roads. All the roads in Concord are considered special. Now we have proponents identifying "special" roads. The Public Works Commission has always maintained that all the roads in Concord are very important and special, and all have historic value. The broad vision of being able to protect them all is preferable.

In 2006 the concept of Scenic Roads was brought up again where both the Public Works Commission and Public Works weighed in point by point explaining why this bylaw would not be helpful. A drawback of this bylaw is its specificity and lack of flexibility, which is the "one size fits all" nature of bylaws. The Commission wanted to highlight the context sensitive roads policy that has the flexibility to allow the design of a footprint of road improvements that protect the character and special assets of all the roads in Concord. There is also a Public Shade Tree Policy in place that goes to tremendous lengths to protect trees from removal from the public roadways.

Commissioner Terry stated that he agrees with the comments made by Director Cathcart, Commissioner Solomon and Commissioner DeLong and that he believes this bylaw is being brought forward because of the potential

development on Balls Hill Road that may affect some residents. Commissioner Terry asked, if this bylaw were in place, what would happen if a tree were to fall on a stone wall and Public Works needed to take action. Director Cathcart responded that it would ultimately depend upon how the governing regulations were drafted. Commissioner Solomon added that in a previous meeting this issue was brought up and in other towns this situation has resulted in five or six hearings needed per year to discuss the removal of a tree or modification of a stone wall. She also expressed that it is not clear how this bylaw has affected public works departments in towns where this bylaw has been enacted.

Commissioner Winslow agreed that there are sufficient regulations in place for the protection of trees, but she wasn't sure about the stone walls.

Commissioner Fasser expressed that he is all for the protection of trees and stone walls, but he feels we already do that and if we had been engaged in this process earlier it may have helped with some of the fine tuning. The policies we already have in place are adequate and this bylaw is redundant. He suggested that perhaps this should be delayed for a year, get Public Works involved, educate people on what is already in place, and then make an educated decision if this bylaw should go forward. Most of the stone walls in Concord are on private property, which this bylaw would not protect.

Commissioner Winslow mentioned that there have been some cases involving multiple entry driveways where she felt stone walls were affected. Director Cathcart explained that there are protective measures in place that limit that type of activity, with safety being the primary reason.

Commissioner Fasser added that the points that the Commission would like Commissioner Solomon to bring up at the above-mentioned hearing will include the fact that a policy is already in place and what that policy says about our roads. The Scenic Roads Bylaw has been discussed in depth, numerous times by Public Works going back to 1994, and the Commission is in the information gathering phase and has not taken a formal vote or position on this topic yet. A few additional issues that were raised were the cost associated with any delay in scheduling work associated with additional hearings required for tree or stone wall maintenance, and whether the Town might be liable for damages resulting in the delay of those repairs.

Commissioner Solomon **MOVED**, Commissioner DeLong **SECONDED** and it was **UNANIMOUSLY VOTED** by roll call vote as follows: David DeLong, Aye, Andrea Solomon, Aye, James Terry, Aye, K.C. Winslow, Aye and Jef Fasser, Aye.

To be represented by Commissioner Solomon at the Planning Board Public Hearing on March 8, 2022 relative to the Scenic Roads Bylaw.

Article 16 – Citizen Petition: Five-Year Moratorium on the Installation of Synthetic Turf on Town Land.

This article has been advanced as a citizen petition and represents a continuation of a moratorium first introduced back in 2016. Director Cathcart explained that because Public Works is responsible for performing maintenance on a number of sports fields/facilities around Concord, it has the potential to impact day to day operations and services offered. He introduced Erik Shaw, CPW's Assistant Highway and Grounds Superintendent, to answer any questions the Commission may have on this topic. Assistant Superintendent Shaw is the Department's subject matter expert and has knowledge and experience in the maintenance and management of both natural and artificial turf.

Commissioner Fasser asked what the implications would be if the synthetic turf fields were no longer in place and only natural turf fields were utilized. Assistant Superintendent Shaw responded that the play seasons would be shorter and their uses will be limited. Commissioner Fasser expressed that the public should understand the implications on the Public Works budget regarding maintenance and how the number of games or events will be affected if this article is passed.

Commissioner DeLong asked if this moratorium applied to the Doug White Field, to which Director Cathcart added that it was not clear and there seems to be some confusion based on the language of the article and supporting documentation provided for the article. At a pre-hearing meeting, the proponent of the article seemed to indicate it would not include the existing fields.

Director Cathcart explained that there are many factors to consider when evaluating the implications of this article, including the general health and safety of children, environmental impacts, sustainability and possible impacts on drinking water quality.

Commissioner DeLong emphasized the importance of making it clear what the cost implications would be if this article were to pass.

Commissioner Fasser brought up the fact that the actual language in the article does not mention excluding Concord Carlisle High School fields and asked if the article would need to be amended if that was the intent. If the High School Fields are not included in the article, this matter would not affect the current maintenance performed by Concord Public Works.

Article 10 – Capital Improvement and Debt Plan.

Director Cathcart reminded the Commission that staff have already provided them with a detailed overview of the capital needs included in this article. Since that overview, the budget has been vetted within the Town Manager's office and refined along with other Town needs as well. Of particular interest was the reduction in the 3.5 million dollar request CPW had made for pavement management. The Town Manager's recommended budget provides an allowance of approximately 2 million dollars. In the recent past CPW has been

issued approximately 1.2 million dollars per year, for roads, which really didn't encompass other pavement related costs.

Article 15 – Establishing an Electrification Trust.

Director Cathcart explained that this article has been created in response to a private citizen's interest in providing a mechanism to allow donations to be pooled in the interest of advancing sustainable practices that might otherwise not be funded in the Town's annual budget. Electrification of facilities and fleet are one such activity that would be advanced. Depending on the interest of the individual making the donation, and the process by which the Town develops the Trust, Concord Public Works could be a potential recipient of such donations. Specific interest is currently in advancing our fleet electrification.

Karlen Reed, 83 Whit's End added that the Acting Town Manager announced that this article was being pulled from the warrant and was no longer necessary.

Article 46 Citizen Petition – Reformatory Branch Trail Feasibility Study.

Article 47 Citizen Petition – Preserve Concord's Reformatory Branch Trail.

These two articles are both citizen petition articles and relate to the same feature, The Reformatory Branch Trail. The trail is currently a dirt path that follows along an old, abandoned rail line that used to connect Bedford and Concord, terminating in West Concord. The area of interest begins at Rt 62 in Bedford, runs along Great Meadows, past the Wastewater Treatment Plant, and ends on Lowell round, near CPW's Keyes Road facility. It is a walking, running and cycling path.

Article 46 seeks funding for a feasibility study to explore interests that would increase activity and mobility allowing for enhanced inter connection with other communities. Article 47 has been presented to seek support for preserving the trail and keeping it more as is, evaluating if any funds are needed to make modest improvements. Depending on what direction Town meeting chooses to take, if any, infrastructure improvements might involve CPW's Engineering Division's input for design/construction related issues and input of the Highway/Grounds Division for potential maintenance issues.

Commissioner Solomon asked if it would be more difficult for Public Works to provide maintenance to the sewer utilities if the trail were paved. Director Cathcart said that would be a consideration.

Article 28 – Authorize Expenditure of Revolving Funds Under Mass. Gen. Laws c. 44, § 53E1/2.

Director Cathcart explained that there is a revolving fund dedicated for fees reflected when we process a street opening permit to be put towards road work and for tree preservation administered through the Planning Division.

Article 40 Solid Waste Disposal Fund Expenditures.

Article 41 Sewer System Expenditures.

Article 42 Sewer Improvement Fund Expenditures.

Article 43 Water System Expenditures.

These articles are Enterprise Funds that are fee supported. All are routine annual actions which authorize the Town Manager to expend funds that are collected through the respective user fees.

Article 33 Zoning Bylaw Amendment – Zoning Map & Thoreau Depot Business District.

Director Cathcart explained that this bylaw would encourage potential increased development/density consistent with some of the Town's Envision interests in the Thoreau District. CPW will need to track the type and density of development with consideration of wastewater capacity constraints. It was noted that the Department continues to press regulators for an increase in capacity at the existing wastewater treatment facility, within the current NPDES renewal process. This request is advanced with the understanding that capacity limitations are impacting economic growth and development opportunities.

Commissioner Fasser opened up the meeting for public comments:

Mark Gailus, 62 Prescott Road, explained that he is the petitioner presenting Article 47 to seek to keep the Reformatory Branch Trail in its present form, with minor improvements for grooming and drainage. He mentioned that he agrees that with respect to the Scenic Roads Bylaw, he feels that the Tree Bylaw takes care of tree protection. With regard to stone walls, he pointed out that Section 15 of the Mass General Laws is confusing. Once a road is designated, any repair, maintenance, reconstruction or paving shall not include cutting or removing trees, tearing down stone walls or portions thereof, without prior written consent of the Planning Board. He thought the wording about penalties was also confusing. He found it hard to understand why the Town would fine itself if it did not follow guidelines for reconstructing or paving roads. Perhaps in the case of a private road the Planning Board would get involved. Because of the lack of clarity, he felt the Deputy Town Manager, or Town Manager should ask Town Counsel to answer some of the impact questions.

Robert Hilsinger (League of Women Voters Observer), commended Commissioner Solomon for her articulate, well researched information relative to the Scenic Roads Bylaw. With regard to the Reformatory Branch Trail, he asked if at some points on the trail, are you walking on private property or is all the land owned by the Town.

Karlen Reed, 83 Whit's End, mentioned that the League of Women Voters is having a program on Friday, looking at almost all of the citizen petitions including the Scenic Roads Bylaw, and that Commissioner Solomon and others might want to participate.

D-2: Director's Report

Director Cathcart informed the Commission that Concord Public Works is now open to the public 8 AM - 4 PM Monday-Thursday and 8 AM until Noon on Friday, or other times by appointment.

- **Engineering (Presented by Justin Richardson, Assistant Town Engineer) –**
 - **Pavement Improvement Programs** – Coring has been performed to determine whether cold in place recycling, mill and overlay or reclamation is needed on designated roads.
 - **Culvert and Bridge Asset Management Plan** – A Request for Qualifications has been issued. Statements should be received by March 10.

- **Highway, Grounds and Cemetery (Presented by Erik Shaw, Assistant Highway and Grounds Superintendent) -**
 - **Winter Maintenance Update** – We are approaching the end of the winter period. To date we have had 37.5 inches of snow with 18” accumulated in the month of February, mostly in two large events. We’ve responded to about nine events this month.
 - **Sidewalk Maintenance** – Maintenance has been performed on numerous sidewalks in Town.
 - **Compost Site** – A large brush grinding operation was performed.
 - **Cemetery Operations** – A large tree came down which required removal.

- **Water/Sewer (Presented by Jeffrey Murawski, Water/Sewer Superintendent)-**
 - **Outreach** – Staff provided presentations to 230 fifth grade students regarding local water resources including protection and stormwater management.
 - **Harrington Ave. Water Repair** – A minor water main break occurred on February 19th, which was repaired.

D-3: Commissioner's Comments

None.

D-4: Public Comments

None,

Commissioner Terry **MOVED** to adjourn the meeting at 5:50 PM,
Commissioner Solomon **SECONDED**, and it was **VOTED** by roll call vote as
follows: Andrea Solomon, Aye, James Terry, Aye, and Jef Fasser, Aye.

ADJOURNED: 5:50 PM

Respectfully submitted,

Approved,

Anna R. Trout	Jef Fasser
Administrative & Special Projects Coordinator	Public Works Commission
Concord Public Works	