

Gully Hill Easement Committee
January 24, 2017
Council Chambers
Draft Minutes

Meeting called to order at 5:00 p.m.

In attendance:

Committee: Councilors Candace Bouchard, Mark Coen, Jennifer Kretovic, and Mayor Pro-Tem Dan St. Hilaire

Staff: Deputy City Manager Carlos Baía, City Planner Heather Shank, Assistant City Planner Beth Fenstermacher, and City Solicitor James Kennedy

Councilor Bouchard stated that City Solicitor Kennedy had a prior engagement that precluded him from staying for the duration of the committee's meeting. As such, she asked that he come up first to address the questions the committee had from their last meeting.

City Solicitor Kennedy stated that, in the first instance, under RSA 47:5, the Concord City Council controls all City property. By way of contrast, RSA: 41 applies to town management of property and contains a provision for boards, like a conservation commission, to manage property.

Mr. Kennedy noted that in 2004, the City re-established the Conservation Commission under RSA 36:A with powers to identify lands that may be protected. RSA 36-A:4 also authorizes the Conservation Commission to request Council permission to acquire those lands.

Mr. Kennedy stated that the City's acquisition of Gully Hill properties began in 2007. He noted that 4.7 acres of the total 112 +/- acres of the Gully Hill land in City possession is in a conservation easement.

Mr. Kennedy stated that the purpose of RSA 36:A is to protect the natural resources of land acquired under its auspices. As such, under RSA 36:A, any future use of the property should continue to protect the natural resources of the land. As to what that could entail, Mr. Kennedy cited the minutes from a 2007 City Council meeting relative to the acquisition of the first Gully Hill property during which City Councilor Dan St. Hilaire inquired as to whether the property could be used as a public park or baseball field. Conservation Commission Chairman Christopher Morgan responded that unless there is a conservation easement or other restriction placed on the land it could be used for any public recreation purpose that is allowed whether it was purchased through the conservation fund as long as it is an open space public use.

Mr. Kennedy also discussed the City Council's October 12, 2010 purchase of the 45 acres in Gully Hill where the City authorized the Conservation Commission to purchase the property but denied the Commission's request for a conservation easement on the property. Mr. Kennedy cited the minutes of that City Council meeting where the Vice President of the Forest Society explained the scope of a conservation easement. In response to City Counselor Mark Coen's question as to whether soccer fields would be a permissible use of the property, the Vice President of the Forest Society stated that short-term events like this would not be a problem, but it is the ancillary facilities that are a problem. The

minutes also show that the Vice President also stated that a small parking area or a restroom would be permissible.

Mr. Kennedy concluded that whatever the uses may be for this property, those uses should be consistent with the purpose of RSA 36:A which is to protect the underlying natural resource of the land.

Approval of the January 10, 2017 minutes

Councilor Kretovic moved approval; Councilor Coen seconded. Motion passes unanimously.

Follow-up on Items from the January 10, 2017 meeting

Councilor Bouchard invited Charlie Hanson with RMI (Resource Management), a biosolids company, to address the committee. Mr. Hanson stated that he has worked with the City of Concord for over 20 years in the management of the City's Wastewater Treatment Plant's (WWTP) biosolids.

Mr. Hanson noted that Concord is unique in the amount of agricultural land it has within its city limits. He stated that he had worked with farmer Keith Richard for years to apply biosolids to his portion of the Gully Hill properties. Mr. Hanson stated that the fertility level of that land is very good.

Mr. Hanson explained that biosolids were not applied to the Bartlett piece as that farmer had access to sufficient manure for his crops.

Mr. Hanson noted that since 1991 Concord has recycled 100% of its WWTP sewage sludge into biosolids. He explained that biosolids fall into two classes: Class B biosolids still have a level of pathogens that require more extensive management while Class A biosolids have been treated to a higher extent and have less pathogens than typical soil. He stated that Concord's biosolids fall into Class A.

Mr. Hanson stated that prime agricultural lands are a rare commodity and he urged the committee to think long and hard before converting this property to an alternate use.

Councilor Coen asked if there was a difference between the economics for Class A and B biosolids. Mr. Hanson answered that Class B takes more management but from an environmental perspective, there is no difference between the two.

Councilor Coen asked if crops grown on land treated with biosolids could be classified as organic. Mr. Hanson stated that biosolids, in general, can never be used for certified organic crop production.

Councilor Coen asked what would happen to the biosolids if Mr. Hanson's company were not in business. Mr. Hanson noted that per federal regulations promulgated in 1993, sludge from sewage treatment facilities only has three alternatives; 1) beneficial use in soil applications or fertilizer; 2) incineration; and 3) landfill storage. He added that alternative 2 and 3 are very expensive and come at an environmental cost. He noted that the vast majority of sewage sludge today can be converted into biosolids due to improved upstream treatment.

Mayor Pro-Tem St. Hilaire asked the waiting period was for the application of Class B biosolids in soil. Mr. Hanson answered that for crops that don't touch soil, the biosolids can be used immediately. In

cases of crops that touch the surface of soil, such as squash, the required waiting period is 14 months. For crops that have direct contact with soil, such as carrots, the period of time is 38 months.

Mayor Pro-Tem St. Hilaire asked if the Gully Hill soils would change if farming were simply to cease. Mr. Hanson stated that the land would start to grow trees. Mayor Pro-Tem St. Hilaire asked what would happen to the soil if grass were simply to be grown. Mr. Hanson explained that if the mowed clippings were recycled on the land, the soil would remain ok but he would expect the Ph level to change over time.

Councilor Bouchard asked if this property was prime farm land because of its history of fertilization. Mr. Hanson stated that it was not due to fertilization. He noted that this land is well-drained and largely devoid of stones.

Mayor Pro-Tem St. Hilaire asked if the land were converted to grass field and the clippings were regularly recycled over a period of 10 years, and then a decision was made to revert back to farming, could the land be brought back to fertility. Mr. Hanson answered that it could but it would take 2-3 years possibly to regain that fertility. Mayor Pro-Tem St. Hilaire noted that this would be in line with the waiting period for Class B biosolids.

Councilor Bouchard invited City Planner Heather Shank to speak to the definitions of "open space" she provided. Ms. Shank stated that open space can be broad and can include active recreation on a limited basis, although she noted that there is a difference of opinion in the planning field relative to this conclusion. She noted that state statutes define open space as farm lands, forest lands and unproductive land.

Councilor Bouchard asked about the 10% outdoor recreation detail the committee was provided. Ms. Shank clarified that this was simply an excerpt from the City's development regulations as applied to residential cluster development. It is not applicable directly to the matter at hand. Councilor Keach asked what guidelines the City should be using relative to the Gully Hill property. Ms. Shank stated that RSA 36-A, in her estimation, would be the standard to apply with an understanding that there could be a variety of uses as long as the natural resources of the property were still protected. At this point Ms. Shank went through a series of slides showing different eco-park examples where a variety of uses are shared on a single property.

Councilor Bouchard stated that the committee should keep in mind that at the southern end of the Gully Hill property is Terrill Park where the City is looking at building a turf field. In addition, the community is also seeking to build the Merrimack River Greenway Trail through this corridor and the City is also examining the feasibility of redeveloping Kiwanis Riverfront Park with more green space and a possible amphitheater. Councilor Bouchard noted that it was imperative for the committee to have a clearer picture of the possible future of the entire corridor from Manchester Street through the Arena property.

Councilor Coen added that if we just focus on one part of the several hundred acres in that corridor we could be duplicating another use. If the committee had a better understanding of the bigger picture, he might be more comfortable with the future of Gully Hill as farm land. Mayor Pro-Tem St. Hilaire concurred that there are many different groups talking about possible uses of this land in this corridor. He noted that several years ago he was considering athletic fields for the Gully Hill property but with the proposed development of a turf field at the southern end of Terrill Park, perhaps that is not necessary.

Ms. Shank stated that there are a lot of plans for uses in that corridor that have been generated in the past or are being considered with the critical piece for all of them being a connection to downtown and the bolstering of the relationship to the river.

Councilor Bouchard invited Jim Owers, Vice Chairman of the Conservation Commission, to speak to the report the Commission submitted to the committee. Mr. Owers stated that the Commission still wants to place a conservation easement held by the Society for the Protection of NH Forests on the Gully Hill property. The current version of the easement being considered would still allow for a shared use path, the construction of a small parking area as well as some limited recreational amenities. This current version, however, would increase the buffer to the river from 75' to 100' and would limit public events on the property to a total of 10 days per season so long as they don't conflict with the agricultural uses and don't impact the natural resources.

Mr. Owers stated that the Conservation Commission contends that the easement is necessary for the protection of the land precisely because the leases are now being considered for possible changes by the Council due to the farmer's abandonment of the property. In the Conservation Commission's opinion, if the land was acquired using conservation funds, the City must keep it in conservation.

Councilor Kretovic asked what if a tenant farmer wanted to erect greenhouses. Mr. Owers stated that the Forest Society easement would dictate that. He noted that hoop houses might be allowed but a greenhouse with a foundation is likely not permissible.

Councilor Bouchard offered the public the opportunity to speak.

Hillary Miskoe, a resident of Little Pond Road, stated that she was disappointed that the Council was considering an alternative use when there is a farmer interested in continuing the agricultural use of the property.

Dick Lemieux, President of the Friends of the Merrimack River Greenway Trail, stated that his group favors any option that allows a 10-12' wide trail through the property.

Councilor Coen asked where the trail would cross the river. Mr. Lemieux answered that a feasibility study was undertaken to address that issue. It would appear that the options could include a new pedestrian/cyclist bridge over the Merrimack from the general area of Gully Hill to downtown or something possibly attached to the existing Loudon Road Bridge once it is rehabilitated in the future. Mr. Lemieux conceded that all of these plans are in the long-term.

Chuck Souther raised the matter of a possible current use penalty if the land is taken out of current use. He sits on the state current use board and didn't know how such a penalty would be charged in the case of a City. Mr. Souther also noted that to qualify for the distinction of prime agricultural land, the Gully Hill property earned that through the evolution of the land and the river over many, many years. His wish is that the land remains agricultural. Mr. Souther also noted that he understood that the land may have been purchased at a discount due to the understanding that it would remain in agriculture.

Councilor Coen clarified that it was his understanding that the property was purchased by the City based on fair market value determined by an appraisal so it was a fair deal for all parties involved.

Rob Morrill spoke next. He stated that he appreciated the committee's work in not leaving any stone unturned in this effort. He noted that the Gully Hill land has not cost the City any money in maintenance and has also generated revenue unlike what he would expect would happen if it were a park like one of the depictions shown earlier by the City Planner.

Stephanie Parkinson spoke on behalf of the chapter members of the Audubon Society. Ms. Parkinson submitted a list of all the birds that her chapter's members have witnessed on or about the Gully Hill property. Ms. Parkinson also read a letter from David Lipsy of Concord.

The public input portion was closed at this point.

The committee asked that Parks & Recreation Director David Gill appear before them at their next meeting to discuss the big picture of what other groups such as the Arena Advisory Committee and the Recreation and Parks Advisory Committee are examining for the general area between Terrill Park and the Arena property at Kiwanis Riverfront Park.

The next meeting was scheduled for Thursday, February 2nd at 5p.m.

Meeting adjourned at 6:30 p.m.

Respectfully submitted,

Carlos P. Baía