

**Town of Foxborough  
Conservation Commission Minutes  
May 23, 2011**

**Members present:** Robert Boette, (Chair), Doug Davis, Judith Johnson and Valerie Marshall  
**Absent:** Allan Curtis (Vice Chair), Eric Nelson (Clerk), James Marsh  
**Also present:** Jane Sears Pierce, Conservation Manager, and Judy Leahy, Secretary

**Meeting Opened**

Bob Boette opened the meeting, held in the Town Hall's Andrew A. Gala Jr. Meeting Room, at 7:00 p.m.

**Girl Scout Troop 80971, Bat House Project**

Several Girl Scouts including Hannah, Jessica, Emily, McKenzie and Liz attended the meeting to discuss their bat house project. The girls explained that the purpose of their project was to provide home for bats since they consume many mosquitoes every night. They have been hanging bat houses up around town and wanted permission to hang bat houses in five conservation areas. All of the houses, which can hold up to 100 bats, have instructions and facts about bats. The girls donated one of their bat houses to the Commission.

They explained that they are also offering the bat houses to the public and have an article in the paper to publicize it.

**Motion** was made by Valerie Marshall to allow Girl Scout Troup 809711 to hang bat houses in the five areas identified; seconded by Judi Johnson. **Vote: 4-0-0**

**MACC Discussion**

Ken Whittaker, Esq., an environmental attorney and Vice President of Advocacy for the MACC, and Linda Orel, MACC Executive Director, attended the meeting to discuss how the Commission might proceed, regarding the outcome of the 2008 Land Court decision.

Attorney Whittaker explained that he had had a chance to go over the background documents that the Commission had forwarded to him. He explained briefly the MACC's advocacy program and the constraints they have to work under, since they rely largely on voluntary efforts.

As background, Bob explained that the Commission had written letters and emails to the MACC, asking for their assistance with dog park issues, but the MACC repeatedly turned them down. He wanted Attorney Whittaker and Ms. Orel to know that the Commission had been very offended by Alexandra Dawson's "Bark Park" article in the November-December 2008 MACC Newsletter.

Ms. Orel apologized, adding that Attorney Whittaker had attended the meeting to talk about how to move forward in partnership and our (MACC/Commission) relationship.

Judi stated that the Bark Park article was a big problem, since the Foxborough decision had affected other towns in Mass (with Town Manager forms of government), too, which were also losing their ability to manage conservation lands. Considering the seriousness of this issue, she was surprised that MACC hadn't taken a stronger advocacy role to avoid this from happening.

Attorney Whittaker admitted that there was a lot of advocacy work that has not come under the MACC's radar and often times they have had to be reactive rather than proactive. He believed that MACC members were entitled to a fair hearing to get the benefit of MACC's thinking, but going to the next step (writing briefs, etc.) was often difficult, due to volunteer efforts.

Val wanted the MACC to educate the other (at least eight) towns that were affected by the Foxborough decision. Ms. Orel offered to write another article, talking about the Town Manager's Act and how to correct the issues it had caused. She said that they could take the article and give those towns a copy. Regarding offering assistance to the other town if they needed it, she stressed that the MACC is not a law firm and could not give legal advice.

Attorney Whittaker indicated that what the MACC owed the Commission, as an MACC member, is an honest appraisal with ideas about where the Commission could go, legally. The MACC gives advice, not legal help, asking the Commission what the MACC could do for them. Judi indicated that the Commission needed to modify the Town Manager Act (TMA), so that the Commission retained their authority under the Conservation Commission Act (Ch. 40, sec. 8C) regarding Article 97 lands. Attorney Whittaker was supportive of this. When asked whether he could propose certain language to amend the TMA, he said that he could draft an article for the newsletter.

Val explained that the bigger issue at the time of the land court lawsuit was that some of the selectmen wanted to sell conservation property (i.e. Article 97 land). The Commission was concerned about people who had deeded their property to the Town, to be protected by the Commission for conservation purposes, but the Town Manager Act over-rode their protection.

Attorney Whittaker explained that the land court decision had dealt specifically with the transfer of land, adding that the TMA could not supersede state law (Article 97).

Judi explained that the Commission had the Town Manager's support on amending the TMA to exclude conservation land. Attorney Whittaker advised that the Commission could go before the Board of Selectmen, asking that the authority to control conservation land be kept with the Commission. The Commission asked the MACC representatives to review their proposed TM revisions and then make suggestions in writing for their presentation to the Board of Selectmen.

Attorney Whittaker indicated that this was an important issue and a good test case, but they wanted to give assistance in a reasonable way, by addressing the bigger picture, namely: how can we make sure that this type of situation doesn't happen again? Both representatives told the Commission that they should feel free to contact either one of them.

### **Sallie Property Project, Garden Club**

Betty Ekstrom and several other Garden Club members came in to give the Commission an update on their garden rejuvenation project at the Sallie Property. Bob thanked the Garden Club members, stating that he appreciated the work they had done so far, which looked beautiful. Ms. Ekstrom advised that they had saved a spot under the tree at the end of the path for the Bill Hocking memorial bench. She thought that it would be nice to have a fence under the tree where the park ends. The Garden Club was planning to add perennials and finish the other side of the driveway. They wanted to create an English country garden, but nothing too formal.

Bob advised that the next step would be to publicize the Garden Club's efforts and ask The Foxboro Reporter to take pictures of the garden after Briggs has installed the bench. The Commission is planning to hold a dedication ceremony on June 6 and will invite The Foxboro Reporter to attend.

### **Open Space & Recreation Plan Update**

Jane reported that she had distributed copies of the draft OSRP to Town Hall Department Heads during their May 12th meeting. As host for the meeting, she gave a brief presentation about the Commission and what they do, as well as the OSRP. She asked the attendees for their comment letters on the plan, to be incorporated into the final plan. She also sent out numerous emails about the draft plan's 30 day comment period and posted the draft plan on the Commission's website.

A final OSRP meeting, attended by a large group of people including Selectman Jim DeVellis, had been held on the previous Friday. Meeting attendees' suggested revisions were incorporated into the draft plan, which would be re-posted on the website. Jane planned to distribute copies of the plan to the Library, Town Clerk and Planning Board for residents' review, and would send a copy of the draft OSRP to the State's reviewer, Melissa Cryan. An OSRP presentation for the Board of Selectmen was scheduled for the following evening.

**Meeting Adjourned**

**Motion** was made by Doug Davis to adjourn; seconded by Valerie Marshall. **Vote: 4-0-0**

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Eric Nelson, Clerk

**List of Documents, Reviewed during Meeting**

1. For the wetland applications reviewed above, please see the Commission's files.
2. Conservation Manager's Report, 5/23/11

Draft minutes taken by Judy Leahy  
Reviewed by Jane Pierce: 2/26/14  
Approved by Commission: 3/10/14