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Conservation Commission Minutes - 03/31/2016

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Franklin Conservation Commission Minutes of Meeting March 31, 2016

To: Town Clerk
cc: Members
File

Present: J. Livingstone, P. Harrington, R. Pendkar, S. McLean, B. Batchelor, T. Henrichon, A. Gelineau, George Russell, Conservation Agent, Kathleen Celorier, Secretary.

Chairman Livingstone announced the meeting would be audio and video recorded.

Mr. George Russell's Agent's Report has been appended to the minutes.

Public Hearing –Notice of Intent – 5 Natalie Circle – Carman

Ms. Renee McDonough, Wetland Scientist of Goddard Consulting, LLC, representing Mike Carman, applicant, addressed the Commission for the restoration of cleared area. She explained the existing and proposed site conditions and how the work complies with the Wetlands Protection Act and the Franklin bylaw. She stated that after speaking with Mr. Russell an engineering plan would not be required. She delineated the wetlands and flagged limit of clearing work done. On the plan she showed the house, drainage channel, culverts, conservation lines, and power lines. The limit of clearing is about a 2,000 sq. ft. area that used to be a vegetable garden and is no longer in use; it was getting overgrown with vegetation. Applicant is unable to walk around house. Area was recently cleared and has layer of dirt and loose layer of straw to protect it. There is a bordering vegetative wetland onsite which is flagged and a 100 sq. ft. branch pile in wetlands. Proposed to restore area to a natural condition that satisfies protection act, bylaw, and applicant. Proposed to plant native shrubs such as witch hazel and berry plants to provide food for wildlife throughout the year. The next area proposed is for wildflowers and after that is walking path to move around property. Walking path will not be stones just an area left open by mowing; area will be native grass seed as right now area is dirt. Also proposed to remove branch pile to let wetlands grow back and receive sunlight. Understand work was done without a permit and are here to restore area.

Mr. Mike Carman stated more was done than anticipated as he just wanted to clear small area and some got pushed into wetlands. Also, in the process a shallow ditch used for overflow of the pond above it and an inlet got covered and he would like to clear them.

Mr. Russell stated he noticed the clearing taking place when he was doing a site inspection on Town-owned land to the west of this property and discussed with property owner ways to correct this issue. All of his concerns have been met including plans and plantings. He did not feel that cleaning out the drainage structure would significantly alter it, but it would have to be added to an order of conditions. He asked what was proposed for the material that comes out of the ditch area.

Mr. Carman said not much would come out of the ditch area and he would make a little mound on either side of the ditch and spread it out.

Mr. Russell asked how will he prevent the material from not going back into the ditch area. He suggested Mr. Carman use the soil material to spread around the planting area.

Ms. McDonough said this would be beneficial in the planting area.

Commission confirmed the brush would be hand-removed only.

Mr. Carman stated Town property abuts his property. As it is all forest about three or four times a year a large tree comes down on his property. In the past he has cut it up and thrown it back into the Town property. More trees have come down and he would like to know what to do with them.

Mr. Russell stated if trees are not in the jurisdictional buffer they can be cut up. He suggested Mr. Carman call the tree warden at the DPW.

There was a motion made by Bill Batchelor to close the public hearing for the NOI for 5 Natalie Circle. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

There was a motion made by Bill Batchelor to accept the NOI for 5 Natalie Circle with special conditions #20, 22, 24, 27, 28, 34, 43, and 44 and to include the removal of vegetative material from the drainage swale. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

Public Hearing –Request for Determination – Keolis Commuter Services

Mr. Kyle Fair, Principal Engineer of Fair Dermody Consulting, representing Keolis addressed the Commission for the vegetation management activities to be done along the right-of-way (ROW). These filings have been brought before the Commission for the past 15 to 20 years; here to renew the RDA. There is a new vegetation management plan under review by DAR which should be approved within the next week or two. Before Commission is a delineation used and approved by the right-of-way management program. He reviewed the somewhat non-standard delineation. Permanent markings are provided at the edges of the zones. The maps are used to identify the field markings while the herbicide is applied. He noted this has been much the same for the past 15 years.

Mr. Russell stated he recommended a negative 5 determination.

There was a motion made by Bill Batchelor to close the public hearing for the request for determination for Keolis Commuter Services. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

There was a motion made by Bill Batchelor for a negative 5 determinations for the request for determination for Keolis Commuter Services. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

Public Hearing – Modification to Approved Notice of Intent – 1312-1342 West Central Street

Mr. Philip Cordeiro, Project Engineer of Allen & Major Associates, representing Acme Jazz and WP East Acquisitions, addressed the Commission for modifications to site development plans. Mr. Cordeiro stated modifications to the NOI for the Weston Woods site plan for parking area modifications and shifting of the building were discussed at a previous Conservation Commission meeting. Abutters have been notified of the impending changes and tonight requesting formal change to the NOI. Detailed drawings for Weston Woods site plan have been provided. Transferring title to WP East Acquisitions, builders of the property. In the transfer some of their program changes have been implemented. Buildings One and Two which are the larger buildings have been shifted. These buildings are not in the jurisdictional area of the Conservation Commission. In shifting the buildings have moved some of the parking areas. Largest change affecting Conservation Commission is some satellite parking areas and an enclosed dog park. At the upper most part of the plan is Building Three; minor modifications to the footprint were made. On southeasterly side of building used to have open air detention basin. This was converted to underground infiltration in order to have appropriate parking along side of building. Have adjusted elevation of the parking area. Have also converted emergency access lane area to a porous paver product which is more decorative with better stormwater infiltration. Have reduced impervious surface. Stormwater flows are generally the same. Entire site has generally underground infiltration. Many tenant-driven changes.

Mr. Russell stated although changes were rather significant, they do not materially impact the resource areas in any negative way. Therefore, he recommended the amendment be approved.

There was a motion made by Bill Batchelor to close the public hearing for modification to approved Notice of Intent for 1312-1342 West Central Street. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

There was a motion made by Bill Batchelor to approve the modification to approved Notice of Intent for 1312-1342 West Central Street. The motion was seconded by Angela Gelineau and accepted with a vote of 7-0-0.

Public Hearing – Notice of Intent – 911 Panther Way – Town of Franklin DPW

Mr. Mike Maglio, Town Engineer, addressed the Commission for expansion of existing parking lot and regrading of associated slopes at the Franklin Police Station. Currently, there is very tight parking for police vehicles. Looking to create about seven additional spaces on the north side of the parking lot. Will not be expanding into the wetland or buffer zone area; work will be done within previously disturbed area. Stormwater quality is important. In this project looking at something new. Would like to try porous concrete precast panels. The extended parking area will be partially pavement and partially these panels so the water will pass over the panels and infiltrate into the ground. Over time if the panels get cracked they can be replaced or if become silted or sanded up panels can be removed, cleaned, and replaced rather than ripping up the entire pavement. As well, no fill will be brought into the site.

Mr. Russell stated an NOI number from DEP has not yet been received; therefore, he recommended the hearing be continued to the next meeting.

There was a motion made by Bill Batchelor to continue the public hearing for the Notice of Intent for 911 Panther Way to April 14, 2016, at 7:35 PM. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

Public Hearing – Modification to Approved NOI – 67 Prospect Street

Mr. Tim Jones and Mr. Eric Bazzett, Engineer of Heritage Design Group, addressed the Commission to change the garage entrance from front of house to side of house to allow a drive-under garage.

The Commission asked the applicant how there was less impact on the resource area but greater vegetation removal.

Mr. Bazzett stated Mr. Jones had received an order of conditions to work on the lot. He cleared the lot, looked at the grades, and contacted Mr. Bazzett regarding the drive-under garage. The new plan follows the existing grades better, eliminates the steep slopes originally proposed on side of house, and replaces it with a retaining wall. Limited disturbance is the same, limited grading is the same, and slight increase in impervious area. To compensate for that a stone infiltration trench on the low side of the driveway is shown. This is a better long-term solution. The slopes next to the driveway will be vegetated and what is

being infiltrated back into the ground will serve as irrigation for the vegetation. Some trees, red maples and red oaks, along the limits of the erosion control barrier as restoration are proposed. The five tree plantings are shown on the plan.

Mr. Jones stated at a past Conservation Commission meeting many more trees and shrubs such as high bush blueberries were added under conditions.

Chairman Livingstone asked applicant to confirm there was no change in the number or composition of the trees to be removed. He noted there was no specified number of trees or bushes to be mitigated on the plan.

Mr. Bazzett stated the number of trees to be removed is the same.

Mr. Jones stated the specified number of trees and bushes to be mitigated was part of an added condition.

Mr. Russell stated the “less impact” was from the grading and therefore from the slopes and the stormwater treatment that were not in place before.

There was a motion made by Bill Batchelor to close the public hearing for the modification to approved NOI for 67 Prospect Street. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

There was a motion made by Bill Batchelor to accept the modification to approved NOI for 67 Prospect Street with original stipulations remaining. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

GENERAL BUSINESS

Minor Buffer Zone Activity: 13 Spruce Pond Road, 14 Spruce Pond Road, 15 Spruce Pond Road, 28 Spruce Pond Road, 37 Quince Landing, 38 Quince Landing, 39 Quince Landing, 40 Quince Landing.

Mr. Russell stated these MBZAs for Spruce Pond Road and Quince Landing are basically eight different MBZAs for exactly the same type of project in the same condominium complex with the same impact. He recommended they be approved by one motion with all eight MBZAs being signed.

There was a motion made by Bill Batchelor to approve all eight MBZAs simultaneously for 13, 14, 15 and 28 Spruce Pond Road and 37, 38, 39, and 40 Quince Landing. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

Permit Modification: 66 Phyllis Lane – MBZA Amendment

Mr. Paul Lepsevich, applicant, addressed the Commission and stated he is requesting approval for an amendment to an approved MBZA permit. He already received approval for the two decks. But, underneath the entire rear deck of the house is gravel which he would like to remove and replace with paver stones. Using equipment, a landscaper will remove the current gravel and place it in the center of the yard to reuse in the installation of a fire pit.

Mr. Russell stated the applicant will be using porous pavers so there will be some additional imperviousness to the area. This is at the edge of the 100 ft. buffer. He does not see any additional impact. He recommended a vote to authorize the amendment and then a letter to the applicant. He noted the fire pit will not be in the buffer.

There was a motion made by Scott McLean to approve the MBZA amendment for 66 Phyllis Lane. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Discussion Item: 5 Briarwood Road

Mr. Russell stated he asked the applicant to attend tonight's meeting. On a routine inspection of the approved permit he perceived a significant issue of slope stability where the construction of the pool was put in. There was some erosion control installed by the applicant between his property and the property owner on Blueberry. Those erosion controls are failing with significant soil movement.

Mr. Peter Good, applicant, stated he hired a contractor and stabilized the banking. It has been re-sloped to be less of a slope and more stable. He provided photographs of when the work was done and as of yesterday to show it is stable. He stated that rather than hay bales that would have to be moved, he ran two strips of sod along the top of the slope. Nothing has moved. He put seed on the slope which has germinated. The silt fence is now not performing any function, but he will keep it there for a while to verify. The instability of the bank occurred in December when nothing could be planted.

Mr. Russell, after looking at provided photographs, stated it is an improvement to what was there. He noted the unconsolidated slope is of concern. It has failed. The placement of sod and seed is a first step to stabilization. His recommendation is not to have applicant have to get another permit, but install a filter mitt on the applicant's side of the erosion control border. He stated he was also hoping to prevent a situation of a civil issue between the property owner and his neighbor if the barrier continues to fail and the soil moves into the wetlands area.

Chairman Livingstone agreed with the installation of the filter mitt/filter sock.

Mr. Good asked if he could just put in more sod at the bottom of the hill. He said there was nothing specified about erosion control on the original.

Chairman Livingstone said applicant needed to put in controls which is different than putting down sod.

Mr. Russell stated the filter fabric will not biodegrade. The filter mitt will prevent additional soil movement before the sod takes root and grows. And, when the soil is stabilized the filter mitt can be cut and it will biodegrade into the soil; it does not need to be lifted out. Because of the soil movement it appears that the area was exceeded; to stop the problem the filter mitt needs to be put down. He requested a vote by the Commission to require Mr. Good to place additional erosion control barrier between the unconsolidated slope and the existing filter fabric.

There was a motion made by Scott McLean that the applicant at 5 Briarwood Road will put additional erosion control between the unconsolidated soil on the slope and the current erosion control barrier. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Discussion Item: Emergency Certification – Hayward Street Culvert

Ms. Clary Coutu, Environmental Compliance Manager for Keolis Commuter Services, and David Gorden, Wetland Scientist and Permitting Agent, addressed the Commission to discuss the emergency certification for the culvert.

Mr. Gorden stated the culvert behind the Moseley Mill building proposed to be replaced is an approximately 2 ½ ft. by 2 ½ ft. culvert that receives drainage from the mill building, cuts underneath the railroad tracks, and heads out into the wetland. They are proposing to replace it with a 36 in. RCP pipe. He stated he had phone conversations with town engineer who agreed this is the appropriate size for this location. He showed pictures of the culvert to the Commission members including photographs of the granite headwalls that have collapsed and the track area. He stated about 1 ½ years ago approximately 100 ft. away another culvert was replaced. Usually the culvert replacement is done within an eighteen-hour period during a weekend.

Chairman Livingstone asked if the culvert going underneath the railroad tracks could collapse the tracks.

Ms. Coutu stated the trains run over 700 miles of track dating back 200 years with hundreds of culverts. Every year they plan to have a number of culverts replaced. The staff goes out in the spring and fall to define levels of deterioration and gives them a level of priority. This culvert is evident of collapse and could possibly cause a derailment. The quicker this can be done, the better. This culvert had been identified to be replaced in July with a full NOI. The area was already surveyed. However, Amtrak is planning an outage of the line so they would like to do this replacement during that outage to complete the project so services do not have to be interrupted. They were told the outage was happening at the end of the month. Therefore, would like emergency certificate issued to do the culvert work during outage.

Chairman Livingstone stated if they were going to follow the same procedure as under the NOI he was unclear of the distinction between the expedited versus non expedited culvert replacement.

Mr. Russell stated there was one distinction: the emergency certificate is not reviewed by any Town staff, whereas the NOI is reviewed by engineering. The NOI has been filed and is scheduled for public hearing on April 14. His opinion was that town engineer should look at this as issue revolves around drainage and stormwater. DEP is becoming slow on providing NOI numbers; strong possibility will not have NOI number by April 14. DEP has indicated to applicant that local Conservation Commission can still close the hearing without NOI number. Town attorney stated that is not recommended because if DEP comes back with any comments they cannot be addressed. So, in light of all factors, he recommended issuing emergency certification, but the NOI goes forward so town engineer can comment. If town engineer has something he thinks should be addressed, it can still be handled under the NOI.

Ms. Coutu asked Mr. Russell if there was a way in the comments section of the emergency certification to indicate the town engineer would review.

Mr. Russell stated he had a problem with that because if the town engineer does come up with an issue, he has no way to know if the comment would come back in time for the Commission to review prior to applicant's window of work. Mr. Russell stated he has no control over the town engineer's work schedule. As well, he has never closed a hearing without an NOI number from DEP.

Ms. Coutu stated she feels confident that the work is going to be done on spec.

There was a motion made by Bill Batchelor to grant the emergency certification for Keolis. The motion was seconded by Scott McLean and accepted with a vote of 7-0-0.

Certificate of Compliance: 860 West Central Street

Mr. Russell stated the work that was done outside of the structure has been certified as complete. There is no information as to whether the work has been done on the inside of the structure. To the best of his knowledge there have been no building permits pulled for the work. Therefore, it seems legally incumbent on the Commission to grant the certificate for the NOI. He also recommended the Commission authorize the generation of correspondence to the building commissioner on exactly what is the status of the interior system work. He noted the original problem was grease backed up and pollution dumped into Mine Brook. He questioned if the grease trap at Incontro Restaurant had been installed.

There was a motion made by Bill Batchelor to issue the certificate of compliance for 860 West Central Street. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

There was a motion made by Bill Batchelor to generate a letter from the Conservation Commission to the building commissioner requesting information about the internal workings of the structure at 860 West Central Street. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

Discussion Item: Eagle Scout Trails Project: Indian Rock Conservation Area

Mr. Russell stated this presentation is being postponed to the next meeting.

Discussion Item: Education & Outreach

Ms. Henrichon stated there will be a Trail Maintenance Day at DelCorte on April 23, 2016 from 8:00-11:00 AM. The Commission members will split into groups of no more than three members so they will not violate the open meeting laws. Groups will go out on April 9 and April 16 to assess the work that needs to be done in order to have the projects ready for April 23.

Mr. Batchelor stated he did a brief inspection of the area from Prospect Street to DelCorte. The shoulder of the road is littered with debris such as plastic cups and bottles. It would be beneficial to have the path to the DelCorte area cleaned.

Mr. Russell stated that could be part of the Earth Day committee the following week if it is not done on April 23.

Mr. Batchelor stated if using the public to clean the area on the side of the road there is liability if someone gets hit.

Mr. Russell stated he could generate a memo to the Director of Public Works asking him to pay particular attention to this area.

Chairman Livingstone stated the slats in the dams had been kicked out and are in the wetlands. He stated such vandalism must be prevented and the town engineer needed to be asked to determine a solution such as metal rails that cannot be broken.

Mr. Russell stated the assessment walks by Commission members to identify the projects at DelCorte on April 9 and April 16 could be put in as a legal notice indicating there will be more Commission members than a quorum present. There is not enough time to post in the newspaper, but there is enough time to post it as 48-hour notice with the town clerk.

Commission members agreed posting it as 48-hour notice for April 9 at 8:00 AM. If members need to go back on April 16 to assess work another 48-hour notice will be posted.

Ms. Henrichon provided a draft of a letter for members to review that will go to Franklin High School and Tri-County and asked for edits so she could finalize and give to Mr. Russell to send on letterhead.

Mr. Russell stated volunteers for April 23 could email to his address and he would forward them to Ms. Henrichon.

Discussion Item: House Bill 3906

Mr. Russell stated there are provisions in this bill that would remove much of the control the Commission now has over such things as the wetlands filing fee account. That is the funding that paid for the DelCorte study and the engineering for the drainage problem off of Eric Drive. The proposed bill would give the

municipal administration the authority to tap into funds. The MACC has indicated there are statutory conflicts with this bill and they have asked for support by local commonwealths of MACC's position. He recommended the Commission go on record as supporting the letter from MACC to prevent the statutory conflict.

There was a motion made by Bill Batchelor to send a letter from the Conservation Commission on House Bill 3906. The motion was seconded by Paul Harrington and accepted with a vote of 6-1-0. (Mr. Pendkar voted No.)

Discussion Item: National Grid Vegetation Maintenance

Mr. Russell stated the letter was sent. As well, an RDA for National Grid work within the Town roads will be on the next meeting agenda.

Violation: 23 Longfellow Drive

Mr. Russell stated no action is required; this is strictly informational. The property owner has refused to pay the fee for the peer review consultant for the remediation plan and wants to discuss it with the Commission. Mr. Russell recommended this be heard by the Commission at the April 14 meeting. The peer reviewers are going to provide new figures because the Commission and the applicant at the last meeting decided they would review the whole wetlands line, not just the one with the violation. The clear cutting that has taken place adjacent to the original violation was done by a utility company but it is not know which one. They have an easement. He stated his recommendation at the next meeting will be if the peer reviewer fee is not paid by a determined date, a second enforcement order will be issued.

CHAIR AND COMMISSION COMMENTS

Minutes:

There was a motion made by Scott McLean to accept the minutes from the March 3, 2016 meeting. The motion was seconded by Bill Batchelor and accepted with a vote of 5-0-2. (Chairman Livingstone and Ms. Gelineau abstained as they were not present at the meeting.)

Signed Certificate of Compliance, Determination of Applicability (Negative), Minor Buffer Zone Activities, Orders of Conditions & Emergency Certification Form

Certificate of Compliance – 860 West Central Street – Clarke -CE159-1072

Orders of Conditions (Amended) 67 Prospect Street – Shamah – CE159-1116

Emergency Certification Form – Keolis ROW off Hayward Street

Orders of Conditions (Amended) 1312-1342 West Central Street – Weston Woods – CE159-1091

Determination of Applicability (Negative) Keolis Commuter ROW

Orders of Conditions – 5 Natalie Circle – Carman – CE159-1120

Minor Buffer Zone Activity – 13 Spruce Pond Road – Langley

Minor Buffer Zone Activity – 14 Spruce Pond Road – Whiton

Minor Buffer Zone Activity – 15 Spruce Pond Road – DeLuca

Minor Buffer Zone Activity – 28 Spruce Pond Road – Macklin

Minor Buffer Zone Activity – 37 Quince Landing – Bates

Minor Buffer Zone Activity – 38 Quince Landing – Kravatas

Minor Buffer Zone Activity – 39 Quince Landing – Loop

Minor Buffer Zone Activity – 40 Quince Landing – Smith

There was a motion made by Paul Harrington to adjourn the meeting. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

The meeting adjourned at 9:15 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary