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## Conservation Commission Minutes - 01/28/2016

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### Franklin Conservation Commission Minutes of Meeting January 28, 2016

To: Town Clerk  
cc: Members  
File

Present: J. Livingstone, P. Harrington, R. Pendkar, S. McLean, T. Henrichon, 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 – Modification to Approved Notice of Intent – 529 West Central Street – Midas Muffler

Mr. Bruce Wilson, Principal of Guerriere & Halnon, Inc., addressed the Commission for modifications to the site plan that was previously approved for the project under construction. Inadvertently, there was an electric line coming into a transformer that did not get properly shown on a drawing as well as a few minor details on the construction. He noted the electric line cuts across the back of the Wendy's building through an easement. It is within the buffer zone and some composting sock was placed. The electric line has been installed and backfilled. Originally it was all one project and then it split into pieces. The electric was always part of the project, but it was not shown on this drawing. One of the retaining walls was constructed slightly different than proposed. DPW requested flared end sections with dry riprap (no concrete) be used around the ends of pipe outfalls.

Chairman Livingstone confirmed that the plan the Commission had is the corrected one.

Mr. Russell noted his Agent's Report did not contain information about this public hearing. He stated the Stop Work Order was issued because the work occurring was not shown on the plan and erosion control barriers were removed to access the work area. Work is within the parameters of the project even though it was left of the plan. He recommended approval.

There was a motion made by Paul Harrington to close the public hearing for the modification for the approved NOI for 529 West Central Street. The motion was seconded by Scott McLean and accepted with a vote of 5-0-0.

There was a motion made by Paul Harrington to approve the modification for the approved NOI for 529 West Central Street. The motion was seconded by Scott McLean and accepted with a vote of 5-0-0.

#### Continued - Public Hearing – Notice of Intent – 300 & 340 East Central Street – Halligan

Mr. Russell stated the peer review had not been completed and a letter for a request for an extension to February 18, 2016 was received.

There was a motion made by Scott McLean to continue the public hearing for the NOI for 300 & 340 East Central Street to February 18, 2016 at 7:35 PM. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

#### GENERAL BUSINESS

##### Certificate of Compliance: 5 Cloverleaf Lane

Mr. Russell stated all was in order for the release to be granted.

There was a motion made by Scott McLean to release the Certificate of Compliance for 5 Cloverleaf Lane. The motion was seconded by Ravi Pendkar and accepted with a vote of 5-0-0.

#### Continued - Public Hearing – Notice of Intent - 67 Prospect Street – Heritage Design

Mr. Tim Jones, Project Builder, addressed the Commission for the construction of a single-family house and provided an overview. New plans were provided showing the changes made as requested by the Conservation Commission at the last meeting. They staked the hay bale/erosion control line and the 100 ft. buffer line shown as shaded in on the plan. The tree line was shown going down the driveway. Caliper size and tree count in the 35-100 ft. buffer zone was shown on the plans along with tree planting summary and the existing trees to be removed. Construction sequence schedule was provided. He stated he thought the mitigation was one new tree for every four to five taken down.

Commission discussed whether the mitigation was reasonable. It was noted the usual mitigation is one to one to maintain habitat.

Mr. Jones said they can add more trees and discussed mix of trees/shrubs and location where Commission would like them to be planted. He agreed with Commission's recommendation for the one to one ratio of 15 trees and 13 shrubs. He said he would mix up red oaks and maples and some high bush blueberries.

Mr. Russell noted on his Agent's Report that stipulation #19 should not be included. In addition, if Commission approves NOI any stipulation for additional plantings must be specifically indicated in terms of location and number. He noted applicant is allowed to choose from the Best Practices

Manual. However, Commission can specify species if so desired.

Mr. Jones explained that he is clearing the land to the 35 ft. buffer for the grading around the house, to allow room to put in all the utilities and septic, and so people that buy the house will know this is the maximum open area.

Commission discussed trees to be removed and the clearing line that applicant showed on the plan. They discussed that they have no expertise in grading and therefore cannot ask applicant to change clearing line due to possible grading issues. Possibly additional mitigation plantings should be considered.

Mr. Jones suggested another 10 blueberry bushes for a total of 15 trees of red maple and red oaks and 23 high bush blueberries.

There was a motion made by Scott McLean to close the public hearing for 67 Prospect Street. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

There was a motion made by Scott McLean to approve the NOI for 67 Prospect Street with special conditions #20, 22-30, 38, 34 & 44 and the additional condition that an additional 15 trees, assorted red oak and maples, and an additional 23 bushes of high bush blueberries or similar plantings be planted along the erosion control line with a plus or minus 5 ft. buffer. The motion was seconded by Ravi Pendkar and accepted with a vote of 5-0-0.

#### **Continued - Public Hearing – ANRAD – 100 Financial Park – Hancock Associates**

Mr. Russell stated that due to the recent snow the peer review wetlands scientist has not been able to verify the wetlands line. Therefore, the applicant has requested an extension to February 18, 2016.

There was a motion made by Paul Harrington to continue the public hearing for the ANRAD for 100 Financial Park to February 18, 2016 at 7:40 PM. The motion was seconded by Scott McLean and accepted with a vote of 5-0-0.

#### **Continued - Public Hearing – ANRAD – Map 233 Lincoln Street – Tunison Dias**

Mr. Russell stated that due to the recent snow the peer review wetlands scientist has not been able to verify the wetlands line. Technically, a request for an extension of the hearing has not been received, but the Commission has the authority to extend without the applicant's permission.

There was a motion made by Paul Harrington to continue the public hearing for the ANRAD for Map 233 Lincoln Street to February 18, 2016 at 7:45 PM. The motion was seconded by Scott McLean and accepted with a vote of 5-0-0.

#### **GENERAL BUSINESS (continued)**

##### **Discussion Item: DelCorte Pond Study**

Mr. Russell provided a list compiled by ESS at the Commission's request of potential grants. He stated the Conservation Commission's presentation to the Town Council regarding which management options should be funded and when has been moved to February 24, 2016. In his Agent's Report, Mr. Russell prepared a tentative table of a management plan with both actions

and costs for the Commission's review based on the ESS report. He stressed that any changes the Commission thinks should go into the report must be given to ESS as soon as possible so the report can be finalized. Therefore, he requested any changes be back to him before the next meeting. If he does not hear from Commission by February 8<sup>th</sup> he will let ESS know report is finalized.

Commission reviewed the management options and agreed to further discuss at the next meeting. As well, although using herbicides is approved method, Commission would like time to do online searching to find out about possible effects and impact on wildlife, birdlife and people.

Mr. Russell stated concern that study found nitrates are coming in and do not know the source. This cannot be ignored and must be addressed as a separate issue.

Commission asked who can do said water testing to address the nitrate issue. This should be brought to the attention of the Town Council.

Mr. Russell stated he did not know. He will check with Public Works Department to see if they know where nitrates are coming from and get a direction on how to proceed to get this kind of testing. Also, purple loosestrife is not treated well with herbicides, but with beetles.

Commission reiterated there are three problems: aquatic invasive species, purple loosestrife, and nitrate level.

##### **Discussion Item: Education and Outreach**

Ms. Henrichon stated she thinks there is an opportunity with this report, with the work at DelCorte in the next few years, and with some of the grant opportunities to start to build a volunteer base for the ongoing maintenance and care of the property. For instance, water chestnut can be removed by hand and trail maintenance and construction can be done with volunteers. There are active volunteer groups in the area; need an access point to get these volunteers. Some towns have a group such as Friends of the Conservation. She stated she would be happy to take on and plan for something in April when weather is getting nice to have a clean-up day at DelCorte, like a kick-off to get names of volunteers. She will prepare some ideas and discuss at next meeting. She also discussed vernal pool certification and application process.

Commission stated someone in the Town with good network connections is often needed to get volunteers. Suggestions included reaching out to Franklin Matters and notifying middle and high schools. Members discussed various ideas. Also, question arose if a Commission member can be on a conservation group. If it were ecology related, probably, but Commission member could not discuss any matter being addressed by Commission.

Mr. Russell stated an intern is coming in for the summer and she wants to work on developing programs and education for DelCorte. She will be doing much field work. He will look into the Commission's suggestions. He also discussed the potential vernal pool on the corner of Miller and Pleasant Streets.

##### **Discussion Item: Stormwater Management & the Local By-Law**

Mr. Russell stated the Commission has been asked to go to the Town Council on the proposed amendment to C. 181 on retention basins. The amendment refers to retention/detention basins only; the bylaw refers to and regulates any freshwater wetlands. The State statute exempts any man-made drainage structures. When constructed a man-made basin is not a wetland. It will become a wetland if not maintained. It is not regulated until it becomes wetlands. The proposal in front of the Town Council is to exempt from permitting those basins maintained by the town's Public Works Department of which 98 basins have been identified. Maps were displayed to provide a visual representation. There are also private basins not maintained by municipality; some will eventually become wetlands. The Town Council has asked for the Commission's input, position, and vote. Most basins outside of the Town's maintenance are in commercial/industrial areas. He provided Commission members with a "position paper" for their review. He noted that with the amendment the DPW is taking away jurisdiction from the Conservation Commission.

Mr. Pendkar stated concerns that this amendment is not enhancing any wetland values and it is trying to solve issue by giving DPW exemption when rest of homeowners and property owners are left under the bylaw. This is not fair. It is also trying to solve current paperwork problem by adding more paperwork, expense, and time which comes from taxpayer's money. He stated he does not support this amendment. State statute already exempts these man-made structures. These basins are designed to buffer runoff on rainy events; designed to protect wetlands. These structures are supposed to be mowed. They are not supposed to erode. Solution is when such basins are approved, conditions should be put in perpetuity that it should be mowed and maintained. Do not need a bylaw amendment for this, leave as is.

Mr. Harrington stated ideally, if the maintenance plan is followed, then the basins will not become wetlands and therefore will not have to deal with Conservation Commission.

Chairman Livingstone requested Commission members identify their opinions individually and as a group. He would like to incorporate everyone's comments into the record. He suggested that Commission would like to maintain some control of the structures. He questioned, does the collective Conservation Commission want the DPW to take away the ability to permit or have oversight over these basins. He thinks the Commission is unanimous with "no."

Mr. Russell reiterated that once it is removed from Conservation Commission's jurisdiction, there is no local body that has any oversight of it. Under current system if DPW does maintenance to a basin that has become a wetland, they need to come in for a permit. This new bylaw would allow DPW to do maintenance on a basin that has become a wetland.

Mr. Pendkar and Mr. Harrington stated their opinion is to leave bylaw as is.

Commission member's discussion continued.

Mr. Russell stated Conservation Commission's opinion has been requested, but Town Council can move forward without it.

There was a motion made by Scott McLean to not approve the amendment to the detention basin bylaw currently before the Town Council on the grounds that the Commission does not want to cede any authority over basins that through neglect of maintenance becomes wetlands. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

#### **Discussion Item: Open Space Plan**

Mr. Russell stated the open space in Town has been tabulated and the maps and narratives are being finalized; still going through the survey data. It appears that all 700 survey respondents said they used recreation activities in Town. Most wanted more bike and hiking trails and swimming pools. Open space has decreased. A hearing with Commission on the draft document will be scheduled about six weeks away. Requested input from Commission.

#### **Minutes:**

Commission discussed December 3, 2015 meeting minutes. A change was requested in the Stormwater Management and Bylaw Amendment discussion on page eight. Mr. Pendkar requested wording be changed to note that he opposed; not consensus. A typographical error was requested to be changed on page one.

There was a motion made by Scott McLean to accept the minutes from the December 17, 2016 meeting, and the minutes from the December 3, 2015 meeting as amended. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

#### **Signed Orders of Conditions & Certificate of Compliance**

Amended Orders of Conditions – 529 West Central Street – Stearns – CE159-1087

Orders of Conditions – 67 Prospect Street – Shamah – CE159-1116

Certificate of Compliance – 5 Cloverleaf Lane – Vick – CE159-1093

There was a motion made by Paul Harrington to adjourn the meeting. The motion was seconded by Ravi Pendkar and accepted with a vote of 5-0-0.

The meeting adjourned at 9:05 PM.

Respectfully submitted,

Judith Lizardi  
Recording Secretary