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Conservation Commission Minutes - 01/14/2016

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Franklin Conservation Commission Minutes of Meeting January 14, 2016

To: Town Clerk
cc: Members
File

Present: J. Livingstone, B. Batchelor, P. Harrington, R. Pendkar, S. McLean, George Russell, Conservation Agent.

Vice Chairman Harrington announced the meeting would be audio and video recorded.

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

Continued - Public Hearing - Notice of Intent - Pleasant & Chestnut Streets Sidewalks - DPW

Mr. Jay Mello, Assistant Town Engineer, addressed the Commission for the installation of sidewalks and drainage improvements along Chestnut and Pleasant Streets. He stated the vernal pool in question is outside the limit of work and the DEP number has been received.

Mr. Russell clarified in his Agent's report the reasons variance was needed to work within the 25 ft. no-touch zone and confirmed vernal pool was outside the limit of work.

There was a motion made by Bill Batchelor to close the public hearing for the Franklin DPW sidewalk and drainage project for Pleasant and Chestnut Streets. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

There was a motion made by Bill Batchelor to accept the Franklin DPW sidewalk and drainage project for Pleasant and Chestnut Streets with special stipulations #20, 24-30, 34, 38-40 & 44. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

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

Mr. Donald Nielsen of Guerriere & Halnon, Inc. addressed the Commission for the project for the construction of three (3) buildings and one (1) restaurant. He stated there was an outstanding item respective to the BETA Group report relative to drainage; therefore, he requested an extension to the next Commission meeting.

Mr. Russell stated verification was received from BETA Group that all engineering issues have not yet been resolved and a hearing extension would be best course of action.

There was a motion made by Ravi Pendkar to continue the public hearing for the NOI for 300 & 340 East Central Street to January 28, 2016 at 7:20 PM. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

GENERAL BUSINESS

Certificate of Compliance: 30 Stonehedge Road

Mr. Russell stated the certificate was ready to go.

There was a motion made by Scott McLean to release the Certificate of Compliance for 30 Stonehedge Road with the understanding that if the wall that was in the original NOI but was not included should be needed in the future a new NOI would be required. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

Public Hearing - 67 Prospect Street - Heritage Design

Mr. Tim Jones, Project Builder, addressed the Commission for the construction of a single-family home with a two car garage and provided a brief description. He stated the lot size is about 1 ½ acres and there is an existing garage/carriage house currently on the property that will be retained and

restored. There is septic in the front, town water and gas. Septic has been approved by Board of Health. He is seeking conservation input before obtaining building permit. He stated he has worked with Mr. Russell throughout the process.

Mr. Russell stated the DEP number was received and DEP is recommending, "That the applicant propose some RFA enhancements such as plantings . . . to offset work in the resource areas." If the Commission agrees to this, he recommended that special condition #19 be attached to the approval. He asked how many trees would be taken down in the resource area.

Mr. Jones stated this is the first he has heard of the mitigation plantings and he will put a mitigation plan together that will satisfy the needs. He stated it was heavily wooded on the left side where resource district is located; therefore, probably 20-25 trees to be removed. The right side is a field. Nothing has been pre-disturbed.

Mr. Russell stated based on Commission's past ratios, he recommended that for every four trees removed one be planted.

Commission stated often trees are surveyed with calipers noted and mitigation plantings are prepared from said information; Commission then knows what is taken out and what is being put back and has way to gauge acceptable level of mediation. The tree line is missing on the provided plans. Commission needs map of current area with trees and sizes, as well as plan with proposed cuttings and mitigation plantings. Workflow sequence and survey also required.

Mr. Jones stated he would provide the tree line, workflow sequence, and survey.

There was a motion made by Paul Harrington to continue the public hearing for 67 Prospect Street to January 28, 2016 at 7:25 PM. The motion was seconded by Bill Batchelor and accepted with a vote of 5-0-0.

Public Hearing – ANRAD – 100 Financial Park – Hancock Associates

Mr. Russell stated there are two Commission members not present at the meeting. If applicant provides testimony may potentially run into quorum issue at the next meeting. As well, he recommended peer review to verify the lines. He stated it is applicant's call as to whether they want to provide testimony or just open and continue hearing based on peer review. Mr. Russell stated this is an extensive wetland's delineation. Based on past directives, already received cost figure from peer review consultants on wetlands line. He recommended Commission vote on peer review and continue hearing.

Mr. Dan Bremser, Project Manager of Hancock Associates, addressed the Commission and introduced David Cowell, Wetland Scientist of Hancock Associates, and Richards Marks, President of Daedalus Projects, Inc. He stated he agreed to the hearing continuance and they have check ready for peer review to get started right away.

Mr. Jay Locke, 7 Rosewood Lane, stated he abuts property and is aware said property abuts Franklin's water supply. He requested information on project as it seems like heavy development is going on.

Mr. Russell stated there is no proposed development in front of the Commission at this time. It is strictly a delineation of where the wetlands are. An ANRAD is just mapping.

Mr. Bremser stated if this does go into development they would issue a notice of intent application and abutters would receive notification.

There was a motion made by Scott McLean to authorize the peer review by BETA Group, Inc. for the ANRAD at 100 Financial Park. The motion was seconded by Bill Batchelor and accepted with a vote of 5-0-0.

There was a motion made by Scott McLean to continue the public hearing for the ANRAD for 100 Financial Park to January 28, 2016 at 7:30 PM. The motion was seconded by Bill Batchelor and accepted with a vote of 5-0-0.

Public Hearing – ANRAD – Map 233 Lincoln Street – Tunison Dias

Mr. Russell stated there are two Commission members not present at the meeting. If applicant provides testimony may potentially run into quorum issue at next meeting. As well, he recommended peer review to verify the lines. He stated it is applicant's call as to whether they want to provide testimony or just open and continue hearing based on peer review. Mr. Russell stated this is an extensive wetland's delineation. Based on past directives, already received cost figure from peer review consultants on wetlands line. He recommended Commission vote on peer review and continue hearing. Mr. Russell stated there is no proposed development in front of the Commission at this time. It is strictly a delineation of where the wetlands are. An ANRAD is just mapping. It is the first step to an eventual development.

Mr. Garrett Tunison, Engineer of Tunison Dias, stated he understands the potential quorum issue and will continue hearing.

Margaret Auerbach, 57 Winterberry Drive, questioned if this is just a delineation why has work been done on the lots. She noted stakes and flags on the property.

Mr. Russell stated the only work done on the lot to his knowledge was utility work done last year on Lincoln Street to put in the stubs for any utility services that go in; it was permitted. The actual staking of the wetlands lines has been done. Different colored flags should be there which is what the Commission's peer reviewer will be looking at.

Applicant noted there was some activity on the site as client going to do soil test pits.

John Glover, 47 Winterberry Drive, stated he looked at floodplain and wetlands maps from the Town website. He asked if Commission would consider that the entrance to this property crosses floodplain. He also noted a similar process on this site about eight years.

Mr. Russell stated he was aware of the floodplain which is a jurisdictional area for the Commission. Application in front of Commission regards determining where the jurisdictional area is.

Applicant stated floodplain was shown on the ANRAD.

Iain Baird, 53 Winterberry Drive, said he directly abuts property being assessed. With all issues being faced with climate change, he asked for the Commission's policies and procedures for dealing with destruction of trees of the sort on this property and development of heavily wooded areas.

He asked where he could obtain information at the State level regarding proposed work on this site and if all Town information and conservation bylaws are available online.

Mr. Russell stated Commission has no jurisdiction on anything that is not a wetlands area.

Commission stated their charter is only for wetlands, not uplands/wooded areas. This ANRAD process will map out what is wetlands and under Commission's jurisdiction. There are state conservation laws that apply as well.

Mr. Russell noted that citizens with concerns can call his office or meet with him and he will go through the step-by-step process.

There was a motion made by Scott McLean to authorize the peer review by BETA Group, Inc. for the ANRAD at Map 233 Lincoln Street. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

There was a motion made by Paul Harrington to continue the public hearing for the ANRAD for Map 233 Lincoln Street to January 28, 2016 at 7:35 PM. The motion was seconded by Bill Batchelor and accepted with a vote of 5-0-0.

GENERAL BUSINESS (continued)

Minor Buffer Zone Activity: 1 Morse Pond Court

Mr. Daniel Pagel, 1 Morse Pond Court, addressed the Commission and provided a brief description of the project. He stated property backs up to wetlands. He would like to replace the existing 20-year old deck with some type of processed material, not pressure-treated wood. It is currently on concrete slab which will not be changed. Plans have been provided to Commission.

Mr. Russell stated he did a site inspection and there are no issues with approving the MBZA. However, given the slope in the rear of the lot, he recommended that erosion controls be installed at the toe of the slope in the rear and be inspected by his office prior to any construction.

Commission said they prefer compost socks rather than hay bales as erosion controls.

There was a motion made by Scott McLean to approve the MBZA for 1 Morse Pond Court with the understanding that applicant will install erosion controls at the toe of the slope in the rear which will in turn be inspected by the Agent prior to any construction. The motion was seconded by Bill Batchelor and accepted with a vote of 5-0-0.

Permit Modification: Beaver Pond Hydrorake

Mr. Jay Mello, Assistant Town Engineer, addressed the Commission and stated this is a continuation of a permit by Recreation every three years. This activity has been ongoing since the mid-1980s. Every two years a mechanical hydrorake which is a powered paddle wheel vessel is used to pull all weeds out of bottom of pond in swimming area only, not through the entire pond. He stated he believes there may be invasive species in the pond.

Mr. Russell stated this permit will expire in May and under the local bylaw can be extended for one year. Further, as per C. 181-8 D of the local bylaw, this will be the last extension permitted.

Mr. Mello noted that mechanical harvesting for invasive species in a pond this large is economically not feasible. Best way to treat pond of this size is with targeted herbicides.

There was a motion made by Scott McLean to approve the extension for the NOI for the hydroraking of Beaver Pond. The motion was seconded by Ravi Pendkar and accepted with a vote of 5-0-0.

Permit Modification: 529 West Central Street

Mr. Russell stated applicant required underground conduit installed and began work beyond the erosion control area which in the plan was identified as the limit of work area. A Stop Work Order was issued. The applicant stopped the work and applied for amendment to the NOI. Mr. Russell stated it was minor and showed Commission photographs of the installed trench in area of the buffer zone. Most of the work is outside jurisdiction; about 20-30 ft. of work is in jurisdiction in the 50-100 ft. buffer. Applicant can go forward with the amendment because they have permission of the new property owner. NOI amendment will allow the existing developer to work on his property and the adjoining property to install conduit. Mr. Russell stated this started when Form-H was submitted to Planning Board to indicate they were all done with the project. It was sent to Conservation Commission for review. Mr. Russell did a field inspection and saw the work beyond the erosion control area. The hope is once this amendment is in place the other details that are still outstanding will get taken care of then release of conditions will be requested probably within next few months. Mr. Russell already informed adjoining property owner, Mr. Wang.

There was a motion made by Ravi Pendkar that the Conservation Commission considers that the utility work at 529 West Central Street to be an amendment to the existing NOI. The motion was seconded by Bill Batchelor and accepted with a vote of 5-0-0.

Discussion Item: DelCorte Pond Study

Mr. Russell stated Commission members received a copy of the Commission's consultant, ESS, draft of the DelCorte Pond Study findings.

Mr. Carl Nielsen, CLM of ESS Group, and Jacqueline Amante, Project Assistant of ESS Group, addressed the Commission on the Ecological and Management Study of the DelCorte Ponds. While narrating a slideshow he stated the purpose of the study was to conduct a thorough evaluation of the ecological health of the two main basins of the DelCorte pond system, including the flora and fauna living within and adjacent to the ponds. The goals for the DelCorte ponds are to maintain and improve recreational opportunities for Town residents. They sampled and reviewed water quality, fish and wildlife, and in-lake vegetation. They also looked at aerial surveys of the pond. From 2003 to 2015 the visible floating leaf vegetation more than doubled. This is a problem as it diminishes the habitat of the fish. They also looked at bathymetry with an average depth of 3.5 feet and maximum depth of 4 to 5 feet with dominant muck. Fish were found to be typical for warm water community. Only problem fish was carp which is an invasive non-native species. Carp used to be put in for ornamental purposes or to control vegetation. Carp will target all aquatic plants, not just invasive ones, and can tolerate low oxygen. Carp can be managed by improving habitat for sunfish which feed on carp eggs. Did not find a lot of 2-3 year old fish based on length-range captured. The larger fish tended to be carp. Wildlife observed included beaver. Seventeen aquatic plant species observed included water chestnut and variable leaf milfoil, two exotic invasive species which are not good for fish habitat. Surface of pond is very much water chestnut and lilies and underneath canopy variable leaf milfoil. Detention time is 23 days; DelCorte ponds flush 16 times a year. Phosphorus load was determined to be higher than permissible. Small reductions in phosphorus can have significant positive impact. A management of both nitrogen and phosphorus should be considered. There was not a big spike in the phosphorus levels in either dry or wet

conditions regarding stormwater runoff. Typical water quality study would be done over longer period of time. The most critical action to restore DelCorte ponds is the removal of aquatic invasive species both variable leaf milfoil and water chestnut which will improve water quality. Short-term recommendations included chemical treatment herbicides/use of 2, 4-D and Clearcast (cost of \$16,000-\$22,000 annually) to get weeds out, and hand harvesting (little or no cost with volunteers) for water chestnut. Recommended long-term options which require more extensive planning, engineering, and permitting included dredging to enhance overwintering fish habitat (cost of \$775,000-\$1.5 million) as fish like the warmer, deeper waters, spawning habitat enhancement (cost of \$35,000-\$45,000) such as addition of sand and/or very fine gravel areas, and fish stocking (cost of \$11,850 per stock) as needed. Sustained monitoring program (cost of \$5,000-\$8,000 annually) should be in place to provide continuous background data for purpose of tracking effectiveness of any future management decisions.

Commission asked if some of the above costs could be offset with available grants and requested ESS to provide list. It seems like a five-year plan is needed to clean up DelCorte ponds.

Mr. Nielsen stated he was not aware of grants for herbicide control. Many grants focus on habitat maintenance and restoration. Dredging can possibly be done under a grant. The weeds are the biggest problem.

Mr. Russell stated the Town Administrator asked the Commission if they can attend the February 3, 2016 Town Council meeting to discuss options for managing the area and make a presentation with recommendations. He noted this is a draft report. If Commission has any items they wish to change Mr. Russell must know by January 28 to provide them to ESS for their final report.

Discussion Item: 2 Angelo Way

Mr. Russell stated this is a request for a release of conditions. During the file inspection, it was discovered there were 15 years of missing reports. Although the project is complete, reporting requirement was not complied with. Recommended the Commission might want to have the property owner obtain a statement from a wetlands scientist, not an engineer, that there was no negative impact on the resource area from the pool construction. He does not want the property owner to incur additional expense, but the Commission should consider the non-compliance for those who come before them in the future with the same issue.

Mr. Jim Makris, 2 Angelo Way, addressed the Commission. He stated he does not know how, but he missed the requirement of the as-built when he finished putting in the pool in 2003.

Commission summarized that applicant just did not close things out upon completion of project. No additional work or physical alteration has been done to property since 2003. It is not 15 years of missing reports, but rather a case of missing the as-built at the end of the project. Therefore, it seems reasonable to have a wetlands scientist review and report that all was done as should be.

Mr. Makris stated he had the as-built prepared last month. He asked the objective of the wetlands scientist. He mentioned chlorine may be found in the wetlands as neighbor backwashes his pool into the area.

Mr. Russell stated wetland scientist would look at wetlands and existing pool project to provide one sentence report indicating construction of pool project had no impact to wetlands resource area. He suggested applicant have wetlands scientist speak to Mr. Russell to be given exact requirement of the Commission.

Commission member questioned why wetlands scientist is needed when there was a previous large project of a similar situation where reports were missing and a waiver was granted.

Mr. Russell stated in all other projects that had not completed reporting requirements the projects were ongoing.

There was a motion made by Scott McLean that the applicant for 2 Angelo Way needs to engage a wetlands scientist to produce for the Commission a wetlands scientist's report about the impact of the construction of the pool. The motion was seconded by Bill Batchelor and accepted with a vote of 4-1-0. (Mr. Pendkar voted No.)

Violation: 31 Hayward Street

Mr. Russell stated 31 Hayward Street was under an enforcement order to prepare an application based on a wetlands violation. The property owner failed to meet the date of December 31, 2015 established by the Commission for the completion of the work specified in the enforcement order. No report was provided or extension requested. The item is being addressed at this meeting in order to allow the owner one last opportunity to address the issue prior to court action or the imposition of fines. Extension requested to April 30, 2016. It is not a big wetlands violation, and an additional violation was found. Both can be corrected with a NOI.

Mr. Donald Nielsen of Guerriere & Halnon, Inc. addressed the Commission. He stated that by March or April a NOI will be before the Commission. The conditions then can be imposed within the NOI. Applicant is looking at a parking lot of 110 parking spaces. To do that must relocate a playground for a day care center which requires approval by the State in which there has been a delay in getting consensus. All work on the project has stopped.

Commission recalled a similar situation with State mandates requiring changes made to a day care center. Chairman recommended extension with the hope that State would finish.

There was a motion made by Scott McLean to extend the deadline for the NOI for 31 Hayward Street to April 30, 2016. The motion was seconded by Ravi Pendkar and accepted with a vote of 5-0-0.

Discussion Item: Education and Outreach

Mr. Russell stated the Town Attorney said no to a Facebook page as there are too many potential legal problems given the quasi-judicial nature of the Commission and its permitting function.

Discussion Item: Stormwater Management & the Local By-Law

Mr. Russell stated the Town Administrator asked the Commission would attend the February 3, 2016 Town Council meeting to discuss the amendment concerning DPW's maintenance of basins and exemption from permitting. The Commission had said as long as DPW informed Commission of which basins they were going to do on an annual basis and informed Commission before the physical work was performed it was good. The Town Council is being asked to look at the issue of why all basins should not be exempt as opposed to just the ones that

DPW maintains. The local bylaw refers to fresh water wetlands. If a basin is constructed and maintained properly, it will not become a wetland. If it is not maintained, it will become a wetland, and therefore, it should be permitted because it is not known the changes that have occurred and material that needs to be removed. For instance, at 12 Forge Parkway they had planned to dredge the basin and Commission did not know where they were going to dredge, how much they were going to dredge, what was being removed, and the effect it would have. It is these issues that Mr. Russell stated the Commission should maintain control over. In addition, Mr. Russell noted there are developers who have built basins and not turned them over to the Town yet, so the Town cannot do maintenance and they have become wetlands. He is requesting new maps be developed to show all 98 basins that the Town maintains in conjunction with the existing wetlands and buffers. He requested consensus of Commission whether to maintain the control and go with amendment as proposed. He suggested he would develop a position paper for Commission's review; the Town Council would like to know the Commission's position and vote on this issue.

Commission members discussed wetlands, basins, potential impact to property owners if basin becomes wetlands, the State statute which exempts man-made basins, and if this reporting requirement may be needless bureaucracy as to whether it is solving any specific problems. Should Town align with State law and eliminate the bylaw? It was noted that problems arise only when people do not do the maintenance on the basins and they become wetlands. Do not want to impose laws that will hinder the maintenance of the basins. What is the best course of action to maximize the probability that people will clean them out and maintain them? Do not want it to become a habitat. Also, basins that are not maintained can create water flow problems for residences which involve public safety and flooding issues.

Discussion Item: Open Space Plan

Mr. Russell provided an update of the OSRP and showed a mapping of the open space in Town. There are a number of parcels owned by the Town which are large and open but do have some building or activity on them. For example, there is no protection on the sewer pump station on Pleasant Street; there are acres of open space behind it which are not protected. Technically such lots have no protection, can be divided, portions sold or the use currently on them expanded. As such they are not being included in the new map of open space, but they will be included on the open space inventory spread sheet and the map of all open space, both public and private, that is being updated. He questioned if these lots should be included on the new open space map. He noted the tabulations of the open space survey responses are being done.

Commission agreed that two maps are requested.

Signed Orders of Conditions, Minor Buffer Zone Activity, Extension Permit & Certificate of Compliance

Orders of Conditions – Chestnut & Pleasant Street Sidewalks – DPW – CE159-1115

Certificate of Compliance – 30 Stonehedge Road – Scituate Bank – CE159-990

Minor Buffer Zone Activity – 1 Morse Pond Court – Pagel

Extension Permit – Beaver Pond – Recreation Dept. – CE159-940

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 5-0-0.

The meeting adjourned at 10:37 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary