

Town of Franklin



Conservation Commission

**April 28, 2022
Meeting Minutes**

As stated on the agenda, due to the concerns regarding the COVID-19 virus, this meeting will be conducted as a remote/virtual Conservation Commission meeting. In an effort to ensure citizen engagement and comply with open meeting law regulations, citizens will be able to dial into the meeting using the provided phone number, or citizens can participate by using the Zoom link provided on the agenda. This meeting will be held in the Council Chambers, second floor of the Municipal Building, for citizens wishing to attend in person.

Commencement

Chair William Batchelor called the above-captioned meeting to order this date at 7:00 PM as a remote/virtual/in-person meeting. Members in attendance: William Batchelor, Jeffrey Milne, Jeff Livingstone, Patrick Gallagher, Andrew Mazzuchelli, Michael Rein. Absent: Richard Johnson. Also present: Breeka Li Goodlander, Conservation Agent; Bryan Taberner, Director of Planning and Community Development; Tyler Paslaski, Administrative Staff; Lenore White, Wetland Strategies, Inc. (via Zoom).

Note: Documents presented to the Conservation Commission are on file.

PUBLIC HEARINGS

Public Hearing – RDA – New England Power Company PIT Maintenance

Ms. Heidi Graf of BSC Group (via Zoom) addressed the Commission for the maintenance work of the New England Power Company easement that runs across Franklin. She reviewed the RDA for their pole inspection and treatment project. She discussed that the maintenance is to survey 42 structures within the wetland jurisdiction including wood poles to see if any rot/decay is occurring below the soil line on any of the poles. The structures will be accessed by UTV or pickup in the uplands and on foot in the wetlands. If there is an area inundated with water, work will not commence there. They will be accessing the poles and hand excavating at the base of each pole to the depth of 18 in. The poles will be inspected for decay; any decay will be removed by hand and the pole will be treated. The area will be restored to pre-existing contours when completed. Chair Batchelor confirmed this is standard procedure on maintenance. Ms. Graf confirmed the routine maintenance is done every ten years on the poles.

Ms. White stated that she spoke to Ms. Goodlander about this item. She stated that as the applicant pointed out, the work is exempt under the Massachusetts Wetlands Protection Act, but the local Franklin wetland bylaw does not recognize the exemption. She discussed that the application is for an RDA to do about 42 different locations. When the application was reviewed, it was determined that there was a lot of information needed before a determination could be made. She stated that Ms. Goodlander went out to the site and found a number of poles in water up to 1 ft. deep. Therefore, she does not think the work will go forward with what is proposed. She stated that there is no indication of how the area will be restored after the work is done, there are no plans as to how the areas will be accessed, and there is no information as to whether they will use timber mats or some other way to access these. She stated that the agent was

working to identify all of the issues so the applicant can address them. She stated that in summary, there is not enough information to make a determination.

Ms. Goodlander reviewed that she met with Ms. White on Tuesday. She stated that she conducted a site visit for this stretch of ROW on April 27, 2022, as the RDA stated the wetlands have not been delineated since 2010. The main concern during the site visit was that parts of the ROW were inundated with standing water of about 1ft. to 1.5 ft., specifically between Structures 224 and 216. She stated that given that the RDA did not speak to maintenance activities or procedures within standing water, she reached out to the applicant to confirm maintenance activities in the event the structure is within standing water. Per the applicant, if there is a significant amount of standing water, NGrid will skip those structures within water as excavating to inspect the base of the pole will not be possible. She reviewed that based on this information, the project may not conduct maintenance on all proposed 42 structures. She noted concern of vernal pools and the protected buffer zone. She discussed that the applicant proposes to use trucks and equipment in the buffer zones which allows for the potential of things to be hit. She stated concern that the PIT maintenance was not fully explained in the RDA. She noted the depth of 18 in. was identified, but how wide the hole needs to be was not identified for the disturbed area. She discussed that restoration was not fully explained in the RDA and no monitoring was proposed. She confirmed that staging of the equipment was not identified in the RDA.

Mr. Gallagher stated that the applicant still needs to provide information. Mr. Livingstone asked what is the determination that a pole would need to be replaced or not, and is it only that you can do this by visual inspection or is there a physical means.

Ms. Graf stated that she does not know if there are alternative methods used by New England Power to do this, but this is the process they have proposed to do this work. She stated that they are looking for if wood is rotting on the pole.

Chair Batchelor stated that they have diagnosed what they would like to have. He stated that he would not like to pass a vote tonight. He would like to look for a continuance for the questions to be answered. Commission members stated agreement. Ms. Goodlander stated that she thinks the RDA needs more tweaking.

There was a motion made by Jeffrey Milne to continue the public hearing for the RDA for New England Power Company PIT Maintenance to May 12, 2022, at 7:01 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – NOI – 585 King Street

Mr. Mark Manganello of LEC Environmental (via Zoom) and Mr. Josh Berman of Marcus Partners, applicant, (via Zoom) addressed the Commission for the construction of a 255,400+ sq. ft. warehouse distribution facility that will include a paved driveway from King Street, stormwater management and septic systems, with associated grading and clearing; the driveway will go directly across a wetland from King Street to the planned site of the facility. Mr. Manganello stated that this project was presented to the Commission a few weeks ago. Since then, they have received an initial comment letter from Ms. White; they are in the process of preparing a written response to that. They anticipate having that before the next public hearing.

Mr. Gallagher asked for clarification regarding discussion at the last public hearing. He noted that this is also under MEPA. He stated that copies of the MEPA materials were not received by the Commission for review; he noted that all those materials should be provided to the Commission. Mr. Manganello stated

that after the last public hearing there was an email exchange with Mr. Paslaski and the materials were sent/provided. He stated that their MEPA certificate has been received, and he will send that along as well. He stated that he would connect with Mr. Paslaski tomorrow to sort out the receipt of the materials.

Mr. Gallagher asked if an alternatives analysis specific to the wetland and the effect on the wetland would be done. He requested an alternatives analysis for options on other driveway locations and how would that affect the wetland resource areas. Mr. Manganello stated that they intend to provide that.

Ms. White stated that she knows the applicant just received her memo regarding her concerns which include the alternatives analysis. Ms. Goodlander stated that she agrees with Ms. White that an alternatives analysis needs to be provided.

Ms. Karen Miller, 246 Washington Street, stated concern about a limited access waiver that the applicant was requesting as the applicant said there was no access. She reviewed the history of the property. She stated that there is access to the property as there is a driveway. Therefore, when the applicant says there is no access, she is confused. She requested clarification as to what is defined as no access to the property when there is a driveway to the property. Mr. Manganello stated that what they meant was there is not access to the property that would allow for the proposed use. There is an existing one-lane driveway to the property, but the proposed use is industrial which requires truck traffic in two directions and a much wider crossing. The existing access is not sufficient for the proposed use.

Mr. Blake Peters, 16 Taft Drive, stated concerns about the entire project. He stated the applicant will clear cut the whole area and there will be no vegetated buffer between the neighborhood and what they are proposing. He stated that the whole drainage area seems to flow back into the wetlands. He asked what are the requirements regarding stormwater management. He asked about any variances and mitigation. Mr. Manganello stated that with regard to the vegetation, it is in upland areas outside the Commission's jurisdiction. He stated that they are requesting a variance for work in the 25 ft. buffer zone. He stated that in terms of mitigation, they have to provide replication in a 2:1 ratio under the bylaw.

Ms. White stated that she met with the conservation agent and she noted that some of Mr. Manganello's replication is beneath the power lines. As the power company does the maintenance to keep the vegetation low, she is concerned that the replication area will be altered over time by the power company's normal maintenance. Mr. Manganello stated that he thinks if any portion is in that area, it is very small; he stated that he would look at it again.

Mr. Blake Peters, 16 Taft Drive, asked what is the purpose on the drawings that there is a 50 ft. buffer around all the power line towers. He stated that one of the detention basins is in that zone. Mr. Berman stated that on the easement with National Grid, they require a 50 ft. buffer around their poles; other work can be done under the easement.

Chair Batchelor stated that the Commission does not have plans in front of them because this is still in motion. He stated that this hearing is going to be continued. Mr. Peters said he downloaded the plans from the website. Mr. Gallagher stated that Mr. Peters should make sure he is not conflating the 50 ft. wetland buffer which is something the Commission has jurisdiction over versus if there is a 50 ft. buffer under an easement, that is a private matter. Mr. Blake stated that he had additional questions/concerns. Chair Batchelor told Mr. Blake to come to the May 12, 2022, meeting.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 585 King Street to May 12, 2022, at 7:02 PM. The motion was seconded by Andrew Mazzuchelli and accepted with a roll

call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – NOI – 839 Upper Union Street

Mr. Mazzuchelli recused himself.

Mr. Nick Dewhurst of Bohler Engineering (via Zoom), Mr. Matthew Clark, owner/developer/applicant, TMC Holdings, (via Zoom), and Mr. Josh Swerling of Bohler Engineering (via Zoom), addressed the Commission for the construction of a 42,750 sq. ft. industrial building for multiple tenants complete with parking, stormwater management, landscaping, and utilities.

Ms. White stated that this is for development on a vacant lot; there are commercial buildings on either side of the proposed. She stated that 99 percent of the project is outside of the regulatory buffer zone. She stated that the only comment she had at the prior meeting is that she would prefer to see the buffer zone that was disturbed be restored; she is requesting a better restoration plan. She stated that the proposed grading is in the 25 ft. buffer zone. She stated that the applicant could move the whole project back so they are outside of the 25 ft. zone. She stated that she has not received any revised plans.

Mr. Dewhurst stated that they held off on issuing any revised plans as they were not sure if they were going to receive any more comments; they were waiting to get everyone's feedback. He stated they do plan on issuing revised materials.

Chair Batchelor recommended that before the Commission gets to debate the issue, they would need to see the plan as it is scoped to be, not what best wishes are. Mr. Clark stated that at the last meeting they submitted the plans and the Commission said they did not receive them in enough time to review them. Now, the Commission is saying to revise them? Chair Batchelor stated that he had a notation that it is a recommended continuance because there are plan revisions and updated information from the Planning Board that the Commission has not gotten. Mr. Clark stated that he believes that is wrong. Ms. White said that Mr. Gary James from BETA did the review for the Planning Board. Mr. James (via Zoom) stated that they are still waiting for revised plans from the original comments that BETA submitted on the Planning Board side. Mr. Dewhurst stated that they wanted to get further along in the conservation process regarding what they are proposing before they issue revised plans that encompassed all comments from BETA and Ms. White. Therefore, they have held off on issuing a fully revised design to make sure the Commission was comfortable with the general layout.

Ms. Goodlander stated that she understands that point, but as Ms. White stated, it would be good to see some sort of plan for restoring that buffer zone and being able to sign off on that. Mr. Gallagher asked the applicant to speak about the current plans before the Commission and the scope of the work in the buffer zone. Mr. Dewhurst provided an overview of the history of the site. In 2005 there was an industrial building proposal before the Planning Board; there were no wetlands on the site. One building and a portion of the parking area was developed; the developer did not move forward with the remainder of the development. The lot was subdivided and purchased by Mr. Clark. They are proposing the same multi-tenant industrial use. The only work being done in the 25 ft. zone is some grading and restoration because when the 2005 construction took place, it was rough graded and they cleared the entire site. Within the 50 ft. buffer they are showing about 2,800 sq. ft. of pavement which as Ms. White pointed out in her memo is permitted within the wetland regulations as it was part of a previously disturbed area prior to 2006. The structures are entirely outside the 50 ft. buffer. Mr. Swerling noted that within the 25 ft. buffer is where the excavated materials from the building that was built were stockpiled; they want to remove the fill and revegetate that area. Mr. Dewhurst reviewed that they filed the NOI and received Ms. White's comments. Ms. White stated that the only thing she asked for was in the 25 ft. no touch area that the area be restored

a little better than seed mix. Mr. Dewhurst stated they would put together a revised plan to address Ms. White's comments. Mr. Swerling stated that they are looking for feedback from the Commission that as they revise the plans, they are headed in the right direction.

Mr. Gallagher stated that he is in agreement with what Ms. White is proposing. All Commission members agreed. Mr. Clark noted that when the area was disturbed, the wetland did not exist.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 839 Upper Union Street to May 12, 2022, at 7:03 PM. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Rein-Yes; Batchelor-Yes.

Mr. Mazzuchelli re-entered the meeting.

Public Hearing – NOI – 84 Populatic Street

Mr. Daniel Bien-Aime with Royal Estates Property Management (via Zoom) addressed the Commission for a Notice of Intent to tear down a house damaged by fire and replace it with a new single-family dwelling. He stated that there is a lake in the backyard. The proposed house is being pulled further away from the lake. There is a flood zone in the area; however, the house is being built out of the flood zone.

Ms. White stated that she issued a letter requesting additional information; she had some concerns about details on the plans. She reviewed the site and associated flood zone. She questioned the proposed deck on the rear of the dwelling. Mr. Bien-Aime confirmed there would be three concrete sonotube pilings for the 16 ft. wide deck. The concrete would be hand mixed in a wheelbarrow. Ms. White stated that the plans do not show the wetland area across the street. She asked about the proposed garage as the plans do not show a garage. Mr. Bien-Aime stated that the existing house has a two-car garage and they are proposing to rebuild similarly to what is currently there. Ms. White said that with those answers, she does not see any further concerns.

Chair Batchelor confirmed that Ms. White was suggesting approval with conditions. Ms. Goodlander stated that her comment was about the wetland area across the street. Mr. Gallagher confirmed this would be an Order of Conditions. Mr. Milne asked about the land in the front of the house that could be used. Mr. Goodlander stated that if the house were moved further to the street, it would be in the jurisdictional floodplain. Ms. White noted that there was a very steep hill in the front of the house as well.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for 84 Populatic Street. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

There was a motion made by Patrick Gallagher to approve the Order of Conditions with standard conditions #20, 21, 24, 27-30, 32, 34, 41, 44, and 51, as well as a condition that would require the applicant to identify the nearby IVW and locally regulated Buffer Zones on their plans, any future utilities work (i.e. water, sewer) may trigger a MBZA pending the location of said utilities in relation to the IVW, for the NOI for 84 Populatic Street. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – ANRAD – Franklin Heights Parcel B

Chair Batchelor recused himself.

Mr. Bruce Wheeler, developer of Parcel B at Franklin Heights, addressed the Commission for an Abbreviated Notice of Resource Area Delineation parcel of 219-178-002-000 (off Lincoln Street); the 20.3+/- acre property is Parcel B of the Franklin Heights housing development. He stated that they filed an ORAD and are seeking an ANRAD. His consultant is unavailable to attend this meeting. He stated that Ms. White has been to the site and he thinks Ms. White is in agreement with the wetland delineation. They have generated a plan as such; however, the new plan was not provided to the Commission within the required time period. He stated that he is fine with continuing the public hearing.

Ms. White stated that she had the chance to review the new plan. A lot of changes had to be made. The new plan does accurately depict the edge of the BVW. She stated that the stream has been determined to be intermittent. She reviewed the additional isolated wetland that was located; they are only jurisdictional in the Town bylaws. She stated that the plans accurately show the wetland areas. Ms. Goodlander stated that she defers to Ms. White as she has been out to the site. Ms. Goodlander stated that there is a potential of a vernal pool. Mr. Gallagher asked about the potential vernal pool. Ms. White stated that she believes they are protected under the Town's bylaws. Mr. Wheeler stated that his consultant will be back next week and will go out in the field to take a look at that. They will share the findings with Ms. White.

There was a motion made by Patrick Gallagher to continue the public hearing for the ANRAD for Franklin Heights Parcel B to May 12, 2022, at 7:04 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes.

Chair Batchelor re-entered the meeting.

GENERAL BUSINESS

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: None.

Certificate of Compliance: 340-350 Grove Street Water Treatment Plant - CE159-1197

Ms. Goodlander stated that she met Mr. Doug Martin on site on April 27, 2022. She stated that the wetland area has been restored to pre-existing conditions.

There was a motion made by Jeffrey Milne to approve the Certificate of Compliance for 340-350 Grove Street Water Treatment Plant - CE159-1197. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

Certificates of Compliance: Well Station 3 - CE159-1183

Ms. Goodlander stated that she conducted a site visit with Ms. White to the restoration area for this project on April 26, 2022. She stated that they noticed that the restoration area shown on the plans has not been restored to pre-construction grades as previously permitted and still contains some foreign fill material beneath the leaf litter and topsoil. She stated that she met with DPW at the restoration site for this project on April 27, 2022. She stated that she suggested they scrape down 6 in. and re-seed. She stated that he (name not identified by Ms. Goodlander) said that DPW could do that as early as next week. She recommended continuing this item to the next meeting.

There was a motion made by Jeffrey Milne to continue the Certificate of Compliance for Well Station 3 - CE159-1183, to May 12, 2022. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

Violations/Enforcement: None.

Minutes: April 14, 2022

There was a motion made by Patrick Gallagher to approve the meeting minutes for April 14, 2022. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

Discussion Items: DelCarte Invasive Plant Management for 2022 – Solitude Lake Management

Ms. Goodlander reviewed her last jobs and what she did. Mr. Taberner discussed that Ms. Goodlander has experience and education and he will be utilizing her not only as the agent but as a natural resource protection manager for the Town; her job will be essentially 50/50 for those two jobs.

Mr. Taberner narrated the slideshow presentation provided in the Commission members meeting packet which is available on the website. He stated that this presentation was provided to Town Council. He stated that in 2015 the Town contracted with ESS Group to develop an Ecological and Management Study of the DelCarte Ponds. The study contains several recommendations related to the management of natural resources at the DelCarte property, including ways to control two invasive species in ponds 3 and 4. The Town contracted with Solitude Lake Management for chemical treatments with the goal of eradicating the two invasive species. The contract includes permitting, posting of the treatments, treatment of the two plants, surveys and reporting. Each year typically consists of 2 to 3 rounds of treatment, 3 to 4 rounds of monitoring, and a report. The fifth year of treatments was recently finished. The invasive species targeted are water chestnut and variable milfoil. The invasive species need to be controlled because total water surface coverage limits light for aquatic ecosystems, limits oxygen levels leading to fish kills, limits native vegetation growth, and impairs recreational activities such as boating and swimming. Clearcast has been used for water chestnut and Diquat has been used for variable milfoil. Changes to water chestnut treatment in 2021 include the addition of Clipper (Flumioxazin) to aid the uptake of Clearcast. The goal is to have the Clearcast absorbed faster before the plant has a chance to drop any seeds. Seeds can be dormant for 10 to 12 years. According to discussions with Solitude Lake Management, milfoil treatments have been successful and the plant was not observed growing in DelCarte ponds in 2020. However, it was spotted during two of the four 2021 surveys. He reviewed some of the excerpts from 2020 year-end report prepared by ESS Group. The results suggest that management of water chestnut in DelCarte Ponds continues to decrease the overall growth and extent of this species, but that persistent effort is necessary to effectively manage this aggressive invasive species. The addition of Flumioxazin (Clipper) to aid the uptake of Clearcast is expected to help. He reviewed the excerpts from 2021 year-end report also prepared by ESS Group. These results suggest that management of water chestnut in DelCarte Ponds continues to decrease the overall growth and extent of this species. However, continued effort is necessary to effectively manage this aggressive invasive species. He reviewed the costs of invasive species treatment. The contract for 2017 and 2018 calendar years was \$55,900. The contract for 2019, 2020, and 2021 calendar years was \$78,750. The total five-year cost was \$134,650. The average annual cost was \$26,930. He reviewed the proposed treatments recommended for 2022 calendar year for an estimated contract cost of \$17,750. He recommended going forward with the proposed approach as it has helped. He recommended using Wetlands Funds to implement the proposed approach. He stated that he will work with Solitude Lake Management by the end of summer to assess going forward. He stated that an RFP will be needed at that point to assess other bidders. He reviewed the

monetary investment in DelCarte Ponds. He requested a vote from the Commission to expend the \$17,750 for treatment for 2022 calendar year.

Commission members discussed the information presented, made comments, and asked questions. In response, Mr. Taberner discussed joining with other towns for a regional approach and stated that this would be researched before going out to bid. He stated that he would do the research for possible grants for restoration work of natural resources. He reviewed that the Town put money aside for this project in 2019. He explained the possibly of matching funds from the Town for DelCarte. He stated that you put as many funding sources together as possible. He reviewed the wetlands costs, administrative, and other uses of the Wetlands Funds. He stated that the chemicals used have been studied by many agencies. When spraying, people want to stay away from the ponds, not drink the water, and not swim in the water. There are postings that go up when there are sprayings.

There was a motion made by Jeff Livingstone to approve the proposed treatment recommendation for 2022. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

Chair and Commission Comments: Chair Batchelor discussed Earth Day in May. He stated that he agreed that they would not deal with vendors. He stated that they would take the money if we need anything such as boxes of Dunkin or Starbucks and treats for young people, and we could do that out of the budget. He stated that he delivered his box of 50 gloves to Mr. Paslaski. Chair Batchelor stated that the protocol is that one glove is given to each person. The person holds the bag with one hand and puts the glove on the hand that is picking. He stated that the gloves were provided by Walgreens. Commission members noted that there is not much trash in the water. Mr. Taberner stated that he spoke to DPW and they would be picking up the trash. He noted that he and Building Commissioner Gus Brown would go to DPW and get the tables and set them up for the event. He stated that the DPW also has foldable picnic tables which could be used at the event so people could sit down. Ms. Goodlander suggested making a bingo card and having people use the identification book and have fun with it. Mr. Livingstone discussed a possible app to use on a cell phone for an activity.

Executive Session: None.

There was a motion made by Jeffrey Milne to adjourn the meeting. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Rein-Yes; Batchelor-Yes.

The meeting adjourned at 9:01 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary