**Franklin Conservation Commission**

**Minutes of Meeting**

**September 29, 2016**

To: Town Clerk

cc: Members

File

Members Present: B. Batchelor, J. Livingstone, P. Harrington, Nick Shuler, George Russell, Conservation Agent

Members Not Present: T. Henrichon, S. McLean, Angela Gelineau.

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

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

**Public Hearing – Amendment Request – 911 Panther Way - DPW**

Mr. Jay Mello, Assistant Town Engineer, addressed the Commission for an amendment request to an existing NOI for expansion of existing parking lot and regrading of slopes for a new dumpster pad. About seven parking spots were added; the police requested a few more items be done to improve conditions around the parking lot. They would like to move the dumpster which is awkwardly located. Many locations were looked at. The proposal is to add 64 ft.2 concrete for a dumpster pad to the parking lot to the west as shown on the provided plan; no parking spaces would be lost. In addition, there is a dilapidated chain-link fence in the back which they would like to replace in the same footprint.

Commission members discussed the dumpster location.

Mr. Russell stated he had no comment.

There was a motion made by Jeff Livingstone to close the public hearing for the amendment request for 911 Panther Way. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

There was a motion made by Paul Harrington to amend the request for 911 Panther Way for the expansion of existing parking lot and regrading of slopes for the addition of a dumpster pad in the back and the repair of the fence to extend behind the dumpster. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

**Public Hearing – Amendment Request – Dacey Fields, 700 Lincoln Street - DPW**

Mr. Jay Mello, Assistant Town Engineer, addressed the Commission for an amendment request to the original NOI to replace existing culvert and embankment on Shepard’s Brook and improvements to existing access road. He stated about half of the road is done; the material is received for free as roads in town are ground up. This is very economical. The culvert came out great and handles the flow. They were approached by a Boy Scout last year with a proposal to put in a picnic area. The area adjacent to the culvert replacements at Dacey field came to mind as when the culverts were replaced there was clearing of some brush on the sides. Proposal is to finish area with a wood chip type surface with three or four picnic tables on the east side of the stream where most of the disturbance happened.

Mr. Russell stated he had no comments.

There was a motion made by Jeff Livingstone to close the public hearing for the amendment request for Dacey Fields, 700 Lincoln Street. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

There was a motion made by Paul Harrington to accept the amendment request for Dacey Fields, 700 Lincoln Street for the Eagle Scout project. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

**Public Hearing – NOI – Beaver Street Interceptor Access Road - DPW**

Mr. Russell stated that given the lack of proof of abutter notifications, he recommended the hearing be continued to the next meeting.

Mr. Jay Mello, Assistant Town Engineer, stated he did not know he would need the green cards. He stated the notifications were sent out.

Mr. Russell stated that on the assumption the notices were sent out, the Commission could take testimony; but, he recommended the hearing be continued anyway. He noted that if the Commission accepts testimony, but the Commission members that are present at tonight’s meeting are not present at the next meeting, a quorum issue could arise.

Chairman Batchelor advised Mr. Mello against giving testimony and to continue the hearing.

There was a motion made by Paul Harrington to continue the public hearing for the NOI for the Beaver Street Interceptor Access Road to October 13, 2016 at 7:25 PM. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

**Public Hearing – NOI – Well Station #6, 312 Grove Street - DPW**

Ms. Magdalena Lofstedt, Wetland Scientist of CDM Smith; Mr. Doug Martin, Civil Engineer/Project Engineer of CDM Smith; and Mr. Jay Mello, Assistant Town Engineer, addressed the Commission for replacement project. Ms. Lofstedt stated the Franklin Department of Public Works filed a notice of intent for replacement of municipal production well #6 located at 312 Grove Street, at the southwestern end of the well field in close proximity to bordering vegetative wetlands which were flagged by CDM Smith. She provided an overview of the well field which consists of five production wells. She reviewed the provided map. The replacement well will not increase the current approved yield by Mass. DEP. The work is very close to the BVW, in the 100-year flood plain, in the 25 ft. no disturb zone, and in the 200 ft. riverfront area; therefore, they are requesting a variance to work in those resource areas.

Mr. Martin provided an overview of how the well will actually be installed. The well will be used to enhance the existing well yield from that site. This new well showed promise from the initial water quality. It is in the location of one of the old original wells that had been removed. The 36 ft. long drill rig will utilize the existing access road off of Grove Street. Pictures of the procedure were shown while he narrated the process.

Chairman Batchelor asked about the pump test process. He confirmed the filter fabric would be in place to catch sediment and that it would be removed at the end.

Ms. Lofstedt stated that compost logs would also be in place for erosion control.

Mr. Russell stated that as noted in his Agent’s Report he is recommending five stipulations. One of the stipulations is for bi-annual reporting from the project engineer or wetland scientist for as long as the NOI is active. Given the location and work being done, this is a viable report for the Commission to have. All concerns from plan review have been addressed.

Ms. Lofstedt clarified the required bi-annual report requirements. She stated this was acceptable.

There was a motion made by Jeff Livingstone to close the public hearing for the NOI for Well Station #6, 312 Grove Street. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

There was a motion made by Paul Harrington to accept the NOI for Well Station #6, 312 Grove Street, with stipulations #20, 22, 23, 34 and 44. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

**GENERAL BUSINESS *(items taken out of order from the agenda)***

**Certificate of Compliance: 99 Bent Street**

Mr. Russell stated all is ready to go forward with the release.

There was a motion made by Paul Harrington to approve the certificate of compliance for 99 Bent Street. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

**Discussion Item: DelCarte**

Mr. Russell stated only one response was received from the bid proposal for DelCarte pond. It has been reviewed and the company meets all required qualifications. He will be recommending the town enter into a contract with this firm. He pointed out that the application of the herbicides will not happen until next year due to the growth cycles of the plants, water level, etc. There is no formal action the Commission needs to take. It may be a little under budget.

Chairman Batchelor stated his distress over DelCarte and that there is no oxygenation at the ponds.

Commission members and Mr. Jay Mello discussed the ponds. It was noted the carp are alive in the ponds, but do not know about the other species.

Mr. Russell stated he has asked DPW to develop a preliminary cost for doing routine maintenance of the area between the street and the water body. He is also working on a management plan for the area.

Commission members and Mr. Mello discussed the areas that need cleaning up and trimming, the comparisons between Dacey and DelCarte, and how to improve people cleaning up after themselves and their dogs. Discussion included outdoor management and how individuals may remove or clean up and do maintenance on their own. A conservation area in a populated area is difficult to maintain without a park ranger. How do other places do it? The playground area is under the recreation department. Mr. Mello stated concern about dirt bikes in the conservation areas.

Mr. Russell stated there are two issues: aesthetics in the front of DelCarte, and dirt bikes in the trail system. Tonight’s discussion is to indicate that he has reached out to engineering to get some cost estimates so the Commission will have more basis to make decisions, and that he is trying to start work on a management plan that will include the trail system. The intent is to make sure Commission is in the loop as to what is transpiring. When they get to actual management plans, formal presentations and motions will be made.

**Discussion Item: Draft 2017 New Hearing Schedule**

Mr. Russell stated a vote is needed as it has to go to the town clerk.

There was a motion made by Paul Harrington to accept the 2017 Hearing Schedule as is in the draft form. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

**Discussion Item: Remote Participation**

Chairman Batchelor provided Commission members with information on remote participation and the open meeting law, including the law regarding both audio and video. He stated that because of the information that comes before the Commission, if the remote access cannot see new information such as prints and pictures distributed to the Committee, it automatically defaults the issue and it cannot be voted on. He reviewed the process involved in getting approval for remote participation.

Mr. Livingstone stated it seems fair that if a person that is remote does not have all the information, audio and/or visual, then their vote should not be considered relevant to the discussion. However, if that remote person is able to acquire that information, such as if everything is already in the packet, then there is no limitation and it seems fair as long as it can be certified they have all the information. If there is a small change that can be described, that may also be acceptable. This could be defaulted to the Chairman’s decision about the remote person’s ability to vote on it. He noted the process to get this approval seems onerous.

Chairman Batchelor stated this seemed like a reasonable assumption. He would ask for the town attorney and town administrator’s input. He has consulted with lawyers and others on this issue. He noted that a remote person does not count toward a quorum. The quorum must be physically present.

Commission members discussed remote access and possible remote access protocol. They questioned what is the impact on the citizens of the town, as well as if the town already has a certificate of approval from the attorney general granting remote access.

Mr. Russell stated he has been informed by the deputy town administrator that the Commission can adopt any procedure they want, but the entire Commission must vote on that procedure.

Chairman Batchelor asked Mr. Russell to get some questions answered and stated the Commission will return to this discussion item at a future meeting.

**Violation: 7 Briarwood Road**

Mr. Russell stated the property owner has received violation notices concerning a great deal of vegetative debris on the property. Under an enforcement order they submitted a restoration plan; that NOI restoration plan was approved. Mr. Russell generated a follow-up letter on August 16, 2016 indicating the items that needed to be done before any activity could commence. At a site inspection on September 14, 2016, he noted a significant amount of work had been done as shown in the provided photographs. The orders have not been recorded and the erosion controls have not been put in place. He issued another stop work order. He recommended the Commission issue another enforcement order to mandate compliance with the recording and erosion control measures. He stated that this property has co-owners, one lives there and one is an attorney in Framingham; he recommended that the enforcement order be sent to each. Both parties have been involved and have been sent all correspondence. In a conversation with the applicant, who is not a property owner, his response to being told he was not in compliance was, “I’ll see you in court.”

Chairman Batchelor stated that they have been before the Commission in the past and the Commission was very clear in stating what the applicant/owner’s responsibly was and what needed to be done. It does not seem they are taking this seriously.

Mr. Russell stated the noncompliance is statutory as well as regulatory. He recommended the Commission authorize the enforcement order on the co-owners of the property at 7 Briarwood Road to comply with stipulations #9, 10 and 20 of the original orders of conditions by October 17, 2016, which would allow them time to put in erosion controls. If the compliance is not achieved, then he will ask the town attorney to take the next legal step on the enforcement orders and Mr. Russell will start issuing fines.

Commission members and Mr. Russell discussed that this issue started in fall 2015, and that the date of October 17, 2016 was generous.

There was a motion made by Paul Harrington to approve the enforcement order and necessary fines for 7 Briarwood Road. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

**Minutes:**

There was a motion made by Paul Harrington to accept the minutes for the September 15, 2016 meeting. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

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

Certificate of Compliance – 99 Bent Street – Global Property Services – CE159-1110

Orders of Conditions – 911 Panther Way – Police Station – DPW – CE159-1121

Orders of Conditions – 700 Lincoln Street – Dacey Fields – CE159-1100

Orders of Conditions – Well #6 – 312 Grove Street – DPW – CE159-1143

There was a motion made by Paul Harrington to adjourn the meeting. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

The meeting adjourned at 8:47 PM.

Respectfully submitted,

Judith Lizardi

Recording Secretary