

**Franklin Conservation Commission  
Minutes of Meeting  
June 14, 2018**

To: Town Clerk  
cc: Members  
File

Members Present: Tara Henrichon, Paul Harrington, Jeff Livingstone, Jeffrey Milne, George Russell, Conservation Agent

Members Not Present: Bill Batchelor, Angela Gelineau, Staci Dooney.

Vice Chair Henrichon announced the meeting would be audio and video recorded. She reviewed how the Commission operates. She stated that Mr. Russell, Conservation Agent, makes recommendations to the Commission based on law; the Commission interprets the law and the needs of the individual. Therefore, it is the Commission's responsibility to come to a decision, not Mr. Russell's decision; he is here in an advisory technical capacity.

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

**Public Hearing – Continued - NOI – Sculpture Park - DPW**

Mr. Jay Mello, Assistant Town Engineer, addressed the Commission for the installation of structures donated by Wheaton College and the removal of some trees in the area of the former town pond. They would also like to establish an agreement going forward so that when someone else donates a sculpture or another tree falls or drops a limb the DPW can take care of it without having to come before the Commission. He discussed the positioning and structure of the sculptures; photographs were provided in the Commission members' packets. He stated one structure would be going into the pond area; fence posts will be anchored into the bottom of the existing town pond with cinder blocks. This would create an approximately 16 sq. ft. land under water body impact. The other two structures would be going into the upland area. Regarding the removal of the trees, he stated the trees had been in a flooded area for 15 or more years, so they are dead; they have been falling apart gradually into the pond and on the path. They are of no value to the park. Taking advantage of the frozen conditions during the winter, the DPW removed the trees and filed the application after-the-fact. He noted there was some alteration to the land under the water body. The stumps were left; there are no plans to take out the stumps at this time. This would become part of the maintenance plan being requested. He described the history of the pond at the site and noted the DPW is responsible for maintenance of this resource. In response to Vice Chair Henrichon's question, he stated they would take a limb off a tree before taking the entire tree down whenever possible.

Mr. Russell noted that as part of the NOI the DPW outlined routine maintenance they undertake every year so they do not have to come back before the Commission for new permitting or amending the existing permit. But, after three years, they will have to come back for extensions and an update.

Vice Chair Henrichon asked if the Commission will get updates if anything happens, for example, if erosion controls had to be installed.

Mr. Mello stated they would be amenable if the Commission wanted to add that stipulation to the agreement.

Mr. Russell stated he felt it would be reasonable to request a report whenever significant resource areas must be disturbed. He noted the routine maintenance of taking out tree limbs will not rise to that level. He will outline that in a cover letter to the DPW Director.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for the Sculpture Park. 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 approve the NOI for the Sculpture Park at Panther Way. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Public Hearing – Continued - NOI – 725 Union Street – Hotel - Holmgren**

Mr. Russell stated at the request of the applicant, he requests this hearing be continued to the next meeting.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 725 Union Street to June 28, 2018, at 7:20 PM. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

**Public Hearing – RFD – Grove Street SNETT Entrance - DaSilva**

Mr. Tony DaSilva, Mr. David Labonte, and Mr. Marc Kaplan, members of the Franklin Bellingham Rail Trail Committee (FBRTC), addressed the Commission. Mr. DaSilva provided history of the FBRTC committee and stated they are a 501c3 entirely volunteer organization. In January 2017, they applied for a grant from the recreational trails program offered by Mass DCR. They were awarded \$11,500. He thanked Mr. Russell for helping them with the forms needed to proceed. The proposed project deals with beautifying the entrance area of the trail that runs from Grove Street to the west. The proposed work is from the edge of the road to 16 ft.; that is all the money they have. They will install pavers, stone dust, plantings, and mulch. He reviewed the packet of information provided to the Commission members which included a photograph of how the entrance currently looks and a sketch of the proposed work. He stated with the Commission's approval, the FBRTC members will work with the vendors to schedule this work as soon as possible.

Mr. Milne asked if the signage would be replaced.

Mr. DaSilva stated there are no plans at this time to replace the sign.

Mr. Russell noted although the resource areas are being worked in, it will not result in significant disturbance. He recommended a negative #2.

There was a motion made by Jeffrey Milne to close the public hearing for the RFD for Grove Street SNETT Entrance. 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 approve the RFD for Grove Street SNETT Entrance with a negative #2 determination. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

## **GENERAL BUSINESS**

### **Minor Buffer Zone Activity: 20 Crystal Pond Lane**

Mr. Robert Keon, owner, addressed the Commission for removal of three trees very close to his house; he is afraid they may fall on the house. He stated Charron Tree Service looked at the trees and stated it is an imminent danger.

Mr. Russell stated he inspected the property and agrees with the applicant's assessment.

There was a motion made by Jeffrey Milne to approve the MBZA for 20 Crystal Pond Lane. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

### **Public Hearing – NOI – DelCarte Ponds Plan Improvements – BETA**

Mr. Joseph Freeman of BETA Group addressed the Commission for the implementation of some of the Master Plan improvements at DelCarte ponds. He discussed the proposed construction of a handicapped accessible gravel path which would allow access down to the existing pier. Also proposed is the removal and replacement of one of the concrete pads used in the picnic area. He stated there will be some shade structures placed over the two concrete pads and loam and seed in some of the areas that have been beaten down by people walking in those area. There will be no impacts to any of the regulated resource areas; all work is within 100 ft. of the bank of the pond. He noted that the provided proposal gives additional specifics. He stated there will be work within 25 ft. of the bank and they are requesting a variance from the bylaw restriction. Essentially, to get to the pond edge, they must do work within the 25 ft. area. The work will be going out to bid soon.

Mr. Russell confirmed there was an NOI number.

Vice Chair Henrichon asked if a maintenance plan for the accessible trail is needed.

Mr. Russell stated the removal of the wood chips will remove all the growth of the invasive plants. After the gravel path is installed, the loam and seed put in will be no-mow grass; it will not grow above four or five inches and does not need to be mowed. It is hearty and resistant to invasive growth. The hope is that this will be a significant improvement to the maintenance. He noted there are a couple of large pine trees that may have to be trimmed, but not totally removed. The concrete pad that was mentioned is overgrown and broken. There are two other concrete pads there that are in good shape which is where the kiosks will go. This is all outlined in the Mass Audubon Master Plan. This is the first step in implementation of the Mater Plan. On another note, he stated the first pond treatment of the second year for the aquatic invasives was done today. They are approaching DelCarte improvements from multiple angles.

Mr. Livingstone asked how much closer this puts the plan to actually stocking fish.

Mr. Russell stated they really will not know until the end of this year when they do the testing. The results will determine if a year three treatment will have to be done.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for DelCorte Ponds Plan Improvements. 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 approve the NOI for DelCorte Ponds Plan Improvements with stipulation #22. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

**Public Hearing – Continued - NOI – Chestnut Senior Village – Whitman**

Mr. Russell stated that at the request of the applicant, this meeting should be continued to the next date.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for Chestnut Senior Village to June 28, 2018, at 7:25 PM. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

**GENERAL BUSINESS (continued)**

**Minor Buffer Zone Activity: 430 Partridge Street**

Mr. Russell stated the property owner erected a fence which was in the buffer zone. On his recommendation, they filed an MBZA. When he went out to inspect the property, he noticed the fence is actually in a BVW and not the buffer zone. In addition, there is a pile of woodchips that were placed in the BVW. He met with the property owner and discussed that being in the resource area, the MBZA permit would not be indicated, but that a wetland scientist would have to be retained to evaluate the wood chips. The property owner was understanding and has retained a wetland scientist. Mr. Russell stated he reviewed the wetland scientist's preliminary report; it is perfectly adequate to address the situation. He recommended the Commission allow the applicant to withdraw the MBZA, the applicant will be filing an RDA because of the work that is actually in the BVW, and be allowed to use the MBZA filing fee toward the RDA filing fee which is what the Commission did for 69 Mill Street.

Mr. Taylor Anderberg and Ms. Brittany Arruda addressed the Commission. Ms. Arruda stated the intent of the woodchip pile was to go over some Japanese knotweed. They did not realize there were any zoning issues until Mr. Russell told them.

There was a motion made by Jeffrey Milne to allow for the withdrawal of the MBZA for 430 Partridge Street and allow the fees for that to be applied to the RDA. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

**Certificate of Compliance: 9 Loretta Road**

Mr. Russell stated all is ready for the release to be granted.

There was a motion made by Paul Harrington to approve the Certificate of Compliance for 9 Loretta Road. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Certificates of Compliance: Lots 1, 2, 3 Marine Way – CE159-956, 957, 958**

Mr. Russell stated these are expired Orders of Conditions that would never release. So, in order to close the title loop, it is recommended they be released as invalid. The next agenda item will add clarity as there is new development happening on these lots; three new houses going up under new NOIs with each house under its own NOI.

There was a motion made by Paul Harrington to release as invalid the Certificates of Compliance for Lots 1, 2, 3 Marine Way – CE159-956, 957, 958. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Mr. Omar Chatila, Project Manager of Franklin Hills, addressed the Commission and stated he was present in case there were any questions.

**Certificate of Compliance: Lot 1 Marine Way – CE159-1111**

Mr. Russell stated this is the first of the new NOI Orders of Conditions for the same lot, street, development. The first lot is ready to have the release granted.

There was a motion made by Paul Harrington to release the Certificate of Compliance for Lot 1 Marine Way – CE159-1111. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Minutes: May 17, 2018 and May 31, 2018**

There was a motion made by Jeffrey Milne to approve the meeting minutes for May 17, 2018 and May 31, 2018 with the changes indicated in the Agent's Report. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

**Discussion: Annual Report**

Mr. Russell stated in the Commission members' packets is the first draft of the Annual Report. He wanted to give the Commission plenty of time to look it over. It is probably due in about two months. Please give him any corrections, suggestions, and amendments and he will incorporate them.

Vice Chair Henrichon suggested that for clean up day it be noted that they partner with the Town. She stated it is worth highlighting the Scout projects that happen.

Mr. Russell requested she send that information to him in an email.

**Discussion: 300 Fisher Street**

Mr. Russell stated that before Mr. Braden Rosenberg speaks, he wanted to make sure Commission members saw the material in their packets related to this item.

Mr. Rosenberg stated he is not here in any official capacity with EPA or its affiliates. He is a resident that happens to know EPA systems with a background in geology, and he has some useful information that he can provide about this site. He stated his statements are his best personal judgment based on his experience; he has not been on the site and has not done site assessments. He does not know the level of background the Commission members have about this site, so they can ask him questions.

Mr. Livingstone stated he does not think most people knew how bad the site was from a toxicology point of view. He asked what is the likelihood that this could be cleaned up to a point that it would be safe.

Mr. Rosenberg reviewed the provided fact sheet and mentioned the names listed on the fact sheet are sources to contact for additional information. He reviewed the EPA site investigation process. He stated the record of documents should be housed in the library and available online. In approximately 2015/2016, the people responsible for the site installed extra fencing, security cameras, and signage because when the EPA came to do an initial site assessment in 2013, they found people were using the site for ATVs and other reasons. There are two imminent hazard areas with extra fencing. The EPA is

currently in the Remedial Investigation Feasibility Study (RIFS) process which is what the fact sheet outlines. He stated they have established a community involvement plan and have addressed some of the issues. All of the sites have been demolished. Starting in June, some of the soil and waste that is there will be removed. EPA will install groundwater monitoring wells, and do soil and sediment sampling to determine how bad the problem is. There are many hazardous elements in the soil; it is not known if it is in the ground water. They will determine if it is better to remove it or leave it. It is not a particularly great site from a geologic and hydrologic perspective. The underlying material is loosely compacted and excessively drained. And, Mill Brook runs near it. Most of the waste piles are upslope from the wetlands. He reviewed how the EPA will do the sampling and establish a monitoring plan. The RIFS can take two to six years. Given the climate with storms and snow melt, they will probably want to get a full years' worth of sampling.

Mr. Livingstone asked, based on the soil, if it is likely that the contamination has been fed into Beaver Pond for years.

Mr. Rosenberg stated he can only speak to what was found in the 2014 site inspection when sediment sampling in stream above and below the site was done. They did find contaminants, but it still must be determined how far did that go. He discussed the sediment samples and the types of contaminants. The bigger concern is the groundwater. Two of Franklin's water supply wells are one-quarter mile from this site. He noted there has not been a lot of community engagement. He stated it is likely the EPA will test up and down stream. He noted that dredging does not always fix problems. Most of this is funded through a long-term trust. There are ways communities can get involved. He discussed the costs of such cleanup. He confirmed this is considered a Superfund site. He stated there is an option to form a community advisory group which is a core group of committed community members who are essentially responsible for connecting the community with the EPA's rather nebulous engagement. There are also several grants to provide technical service providers who serve in a technical and advisory capacity for the citizen's advisory group if the community would like to get additional technical information. He stated the EPA will look at re-use possibilities, but it will be many years.

Commission members asked questions and discussed the feasibility study, citizen's advisory group, the possibly of having the Commission host the EPA at meetings, and putting information on social media.

Vice Chair Henrichon asked if Chrissy Whelton could add a box on the Town's website/Commission's page that links to the EPAs information on this.

Mr. Russell stated announcements can be put on the Commission's page at any time; announcements can also be put on the town's social media at any time.

### **Discussion: By-law Amendments**

Mr. Russell stated they have been receiving a lot of feedback on some of the issues that have been coming up that have to do with activity in the buffer zones that are not necessarily "big deals." He gave an example of the property owners from tonight who wanted to remove three trees; all were outside the 25 ft. no-touch zone, all were in the upland, but still within the buffer. Under the local bylaw, there is no authority for anybody to approve any of that activity except the Commission. He stated one of the things he wanted to bring to light was the concept of amending the three local bylaws that govern the way the Commission operates. Specifically, Chapter 181 as outlined in the packet the Commission members received, which in essence would delegate to the Agent some approval authority using an MBZA process. For instance, if property owners have a pile of vegetative debris between the 50 ft. and 100 ft. buffer, to allow that to be "administratively" approved via an MBZA process but signed off by the Agent. It would not apply to any activity in the 25 ft. no-touch zone or in a resource area. He stated it is important to note that if the Agent went out and saw something that he thought should go to the Commission, there would

not be an additional filing fee. But, the applicant would have to go before the Commission. He stated one of the specific prohibitions in the local bylaw is that it specifically says you cannot cut down a tree. He would like to submit an amendment that says a person cannot cut down a tree unless it is under the Agent's approval authority. He thinks it is important to note that it is not just vegetative debris but includes sheds and playscapes. The process would be faster. He also recommended an actual definition of

vegetative debris. Finally, he is proposing an amendment to the fee structure of the local bylaw to reduce to 50 percent of the current filing fee regarding the situation where an Order of Conditions has to be released, but years of reports are missing and what has happened in the past cannot be recreated. Should the Commission be comfortable with this, he will pass it to the Town Administrator and then it will go to Town Council. If changes are suggested, it will return to the Commission.

Vice Chair Henrichon summarized that the applicant could apply, the Agent could go out and look, and while on site the Agent could say Yes and make it happen. And, anything the Agent is not comfortable with, there is still the option of bringing it to the Commission. She asked if wording could be added that if the Agent makes decisions in the field, reporting of this will come back to the Commission at each meeting.

Commission members and Mr. Russell discussed the proposed bylaw amendments, a monthly report from the Agent of all items the Agent approved based on the proposed bylaw, and how this will streamline the process. They also discussed the 25 ft. no-touch zone and if it should be greater.

Vice Chair Henrichon noted all Commission members present are supportive of this, but she would like non-present Commission members to have a chance to review and provide feedback.

#### **EXECUTIVE SESSION: Discussion – Pending Litigation**

There was a motion made by Vice Chair Henrichon to enter Executive Session to discuss Pending Litigation followed by resuming the open meeting session. The motion was accepted with a Roll Call Vote: Henrichon-Yes; Livingstone-Yes; Harrington-Yes; Milne-Yes. (Vote: 4-0-0.) This portion of the open session of the Conservation Commission meeting ended at 8:41PM.

#### **OPEN MEETING SESSION RESUMED**

##### **Certificate of Compliance: 67 Prospect Street**

Mr. Russell stated he recommended the Commission vote to deny the partial release based on the fact that the required landscaping and work authorized under the first Orders of Conditions and the first amendment thereto have not been completed.

There was a motion made by Paul Harrington to deny the Certificate of Compliance for 67 Prospect Street based on the required landscaping not being completed. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Signed Minor Buffer Zone Activity, Orders of Conditions, Determination of Applicability & Certificates of Compliance**

Lot 1 Marine Way – Franklin Hills – CE159-956

Lot 2 Marine Way – Franklin Hills – CE159-957

Lot 3 Marine Way – Franklin Hills – CE159-958

1 Marine Way – Franklin Hills – CE159-1111

Scupture Park – Franklin DPW – CE159-1181

Delcarte Pond Improvements – Town of Franklin – CE159-1182

Certificate of Compliance – 9 Loretta Road – Adiletto – CE159-1129

Determination of Applicability - Grove Street SNETT Trail Entrance

Minor Buffer Zone Activity – 20 Crystal Pond Lane – Koen

There was a motion made by Jeffrey Milne to adjourn the meeting. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0. The open meeting session had resumed for two minutes.

Respectfully submitted,

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Judith Lizardi

Recording Secretary