

**Franklin Conservation Commission  
Minutes of Meeting  
December 6, 2018**

To: Town Clerk  
cc: Members  
File

Members Present: Jeff Livingstone, Paul Harrington, Angela Gelineau, Jeffrey Milne, George Russell, Conservation Agent

Members Not Present: Bill Batchelor, Tara Henrichon, Staci Dooney.

Mr. Livingstone announced the meeting would be audio and video recorded. He reviewed how the Commission operates. He 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 – 1111 Pond Street – Pruyn**

Mr. Russell stated he requests this hearing be continued; the applicant agrees. A report has not been received from peer review.

There was a motion made by Angela Gelineau to continue the public hearing for the NOI for 1111 Pond Street to December 20, 2018 at 7:05 PM. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

**GENERAL BUSINESS**

**Minor Buffer Zone Activity: 12 Addison Avenue**

Mr. Russell stated he was doing an inspection at 8 Addison Avenue. While there, he noticed significant cutting and deposition of vegetative debris at 12 Addison. He talked to the owner at that time and followed up with a letter informing him that he had to file a permit for the work. The owner filed an MBZA permit. Mr. Russell stated that when he went to the location to do a further inspection after the permit was filed, it was his opinion, as indicated in his Agent's Report, that the activity had taken place either within the 25 ft. no-touch zone or in the BVW. Therefore, Mr. Russell informed the property owner that he would have to attend the meeting. He gave the homeowner the policy of the Commission. The owner is present to address the issue.

Mr. Anthony Loureiro and Ms. Luciana Loureiro, homeowners, addressed the Commission. Mr. Loureiro stated he cut branches from the side yard between his house and 8 Addison for what he considered to be overgrowth; the branches were then put in the area. He addressed the photographs provided in the Commission members' packets. He said he was not clearing land; he was trying to reclaim some of his

yard that had been overgrown for 15 years. He noted in one of the photographs a sprinkler head that is part of the original lawn area. He stated that in December 2017 through March 2018 they lost a significant number of trees in that area; there is a lot of water that runs through that area which comes from the property behind his. He believes it weakens the tree roots. Many trees in the area were knocked over. He would like to reconcile this.

Mr. Russell stated that going on the NOI that was submitted for the adjoining property at 8 Addison, which did do a wetlands delineation, and going on the GIS map and field observation, it was his opinion that the brush is still within the BVW and some in the 25 ft. no-touch zone. In terms of the debris knocked over by the storm, the Commission does have a policy on that indicating it can be cleaned up within two weeks of the storm. The way the state and local laws are written, you cannot fill, alter, dredge or remove material from a jurisdictional area without a permit; this is the issue. He stated he does not know if the homeowner wants to leave the material there or remove it, but the policy is to engage a wetland scientist to evaluate and file an RDA permit.

Mr. Loureiro stated he prefers to do whatever is the easiest to do with the material, leave it or remove it.

Commission members stated a wetland scientist would determine if it had to remain or be removed.

Mr. Russell recommended that if the Commission went with policy and voted to require the RDA and wetland scientist's report, the \$50 application fee paid for the MBZA be credited toward the RDA fee.

Mr. Livingstone stated that would maintain consistency with what the Commission has done in the past.

Mr. Loureiro asked what he would be asking the wetland scientist to do.

Mr. Gelineau stated if it were better ecologically to leave them there or take them out; what the best course of action is from the perspective of the environment. They will use their professional opinion.

Mr. Russell reviewed some possible scenarios of what the wetland scientist may report. He stated he can provide the homeowner with a list of wetland scientists that have worked in front of the Commission before; the Commission cannot recommend one over the other. He recommended the homeowner call more than one as prices will vary. He noted that with the wetland scientists report, the homeowner will have to submit the permit application. The permit fee is \$200 and the advertising fee is \$110. The homeowner will be credited with \$50 that was already paid toward the MBZA. So, it will be \$260 plus the cost of the wetland scientist which the Commission has no control over.

Mr. Loureiro stated he was just reclaiming his land. The area is basically a runway for water that flows from the property behind him through to the street. It is troubling to him that he is getting penalized for this action.

Ms. Gelineau stated the issue is not what was cut down, it is where it was put, that is part of it. She asked Mr. Russell, in terms of the water flow coming from other properties to this, if he knew what the bigger picture was.

Mr. Loureiro stated he has complained to the Town about the water 52 times when the house was built.

Mr. Russell stated if the water is coming from private property and running onto another's private property, legally, it is a civil issue between the adjoining property owners. The water in the public domain, the right of way, is the municipalities issue. The town engineer is the appropriate person to speak with about it. As well, should the homeowner decide the best course of action long term is to do

something such as piping the water so it gets out to the street, that can be done, but that would incur significant cost due to engineering and permitting. He stated that to follow policy, he thinks a wetland scientist's report and RDA are in order.

Ms. Gelineau confirmed this is what the Commission has done in every other case like this.

There was a motion made by Angela Gelineau for the MBZA for 12 Addison Avenue that it be turned into an RDA and that the filing fee for the MBZA be credited to the RDA and that a wetland scientist be retained to determine the impact of the material that is in the jurisdictional area. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Mr. Russell confirmed he would be generating a letter that will outline everything for the homeowner.

**Public Hearing – Continued - NOI – 725 Union Street – Holmgren Eng.**

Mr. Russell stated the applicant has requested a continuance to December 20, 2018.

There was a motion made by Angela Gelineau to continue the public hearing for the NOI for 725 Union Street to December 20, 2018, at 7:10 PM. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Public Hearing – NOI – Franklin Country Club – Guerriere & Halnon**

Mr. Russell stated the applicant has requested a continuance to January 17, 2019.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for Franklin Country Club to January 17, 2019, at 7:00 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

**Public Hearing – Amendment – Well #3 Improvements – CDM Smith**

Mr. Doug Martin and Ms. Danielle Giallant, both of CDM Smith, representing the Town of Franklin Water Department, addressed the Commission. Mr. Martin stated this is an amendment to an existing Order of Conditions that was filed for Well #3A off Grove Street. The original Order of Conditions was for the construction of the well, access road to get to the well, and testing of the well. That has all been completed as of last week. They are here tonight to amend the Order to connect the well to the existing well station off Grove Street. He provided and explained the details of a diagram showing the existing well, access road, and surrounding area.

Mr. Milne asked if there was any additional disturbance beyond what was already done to connect the well.

Mr. Martin said yes.

Ms. Giallant, using the diagram, showed and explained the new disturbance to the existing BVW. It is approximately 510 sq. ft. She stated that as part of that disturbance, which is about a 20 ft. swath, about half would be allowed to revegetate naturally, the additional 10 ft. would be kept as an easement, so any woody vegetation would be cleared for access and to not have any problem for the water line with roots. She noted it is not really any net loss of wetland; the "change in community type" is about 250 sq. ft.

Mr. Livingstone confirmed the pipe will be buried when done.

Ms. Giallant explained how the work would be done to install the pipe.

Mr. Martin confirmed this well is supplemental to Well #3, not replacing. He stated it will not be the same contractor to do the pipe connection as did the drilling. The pipe connection will go out to bid; therefore, the contractor is not yet known.

Mr. Russell stated the drillers were excellent. They were very respectful of the regulated area.

Mr. Martin stated they would be the ones installing the pump. Otherwise, the major portion of the project will be done by whoever wins the bid.

There was a motion made by Jeffrey Milne to close the public hearing for the Amendment for Well #3 Improvements. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau to approve the Amendment for Well #3 Improvements with stipulations #20, 34 and 44 attached to both the amendment and the original NOI. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Public Hearing – NOI – Spruce Pond Aquatic Mgmt. – Solitude Lake**

Mr. Russell stated the applicant requested this hearing be continued to the next meeting due to the lack of an NOI number.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for Spruce Pond Aquatic Mgmt. to December 20, 2018, at 7:15 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

**GENERAL BUSINESS (continued)**

**Permit Modification: Emergency Certification – Garelick Farms**

Mr. Russell stated that in the Commission members' packets is background information including the initial report on the spill from the on-site LSP. He stated they received notification of a spill last week; when he got there, it was quite a spill. As a result, he has been in communication with the LSP, DEP, and it is the opinion of all concerned that he has been dealing with that the Emergency Certification needs to be issued to allow them to work in the jurisdictional areas. He stated milk waste and sanitary waste spilled. He explained there are large holding tanks on site that waste products from the plant go into. He understands that methane gas got into the system and pushed the solids up which reached a point in the tank that was not designed to hold solids. It ruptured. It went down into an existing drainage swale into a basin that was designed to hold any spill. It did not get into any waterways. It is not believed that there is any hazardous material; a chemical analysis has not yet been received. DEP was on scene immediately; EPA was notified. Garelick has been very cooperative. The LSP believes the major site cleanup will be completed tomorrow. Then there is about another weeks' worth of work to do. He said DEP will be looking to determine how the methane got in. He stated the LSP and he talked about, and he recommends, that attached to this Emergency Certification be a letter that he would like to send Garlick that states an NOI and restoration plan may not be required at this time due to the fact that probably doing any significant restoration work in the jurisdictional area will probably cause more harm than good, but he would like to receive reports from Garelick and have the option at a later date to issue an enforcement order for a restoration plan, if necessary. The vote of the Commission would authorize the letter and the Emergency Certification to take care of the immediate permitting necessary and the letter would then be for the future going forward for Garelick to report to the Commission what is going on. Garelick will also be reporting to DEP. EPA probably will not be involved as it did not reach the waterways.

There was a motion made by Angela Gelineau to approve the Emergency Certification for Garelick Farms and authorize the Agent to send a letter to Dean Foods outlining the reporting requirements as part of this Emergency Certification. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

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**Certificate of Compliance: Spruce Pond – SE159-853**

Mr. Russell stated the public hearing earlier tonight was actually almost the exact same permit. What happened was they forgot to renew it. This would be a regular Certificate of Compliance. The “old” Orders are being replace by the “new” Orders. He recommended the release.

There was a motion made by Jeffrey Milne to release the Certificate of Compliance for Spruce Pond, SE159-853. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

**Certificate of Compliance: 27 Jefferson Road**

Mr. Russell stated this is a very old permit; it went with the original subdivision development. The property owners are trying to sell the home; the attorneys picked up the fact that there is no Certificate of Compliance. He noted supporting documents in the Commission members’ packets. He recommended the Certificate be granted.

There was a motion made by Angela Gelineau to release the Certificate of Compliance for 27 Jefferson Road. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Certificate of Compliance: Chestnut Senior Village**

Mr. Russell stated this is the old one; it will be an invalid Certificate as it was never built. It has been replaced by the new Chestnut Village Orders.

There was a motion made by Angela Gelineau to approve the Invalid Certificate of Compliance for Chestnut Senior Village. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Discussion: Administrative Approvals**

Mr. Russell stated the Administrative Approvals that have come forth are in the Commission members’ packets. He stated one was submitted that he did not feel comfortable approving; it will be on the next meeting agenda. It was for taking down 12 trees in a backyard of a residence at 14 Garnet. Four of them are in the 25 ft. to 50 ft. zone. He noted they once came in to take down 22 trees. It is a different owner this time.

Commission members discussed that this process seems to be working.

**Discussion: DelCarte Pond Treatments**

Mr. Russell stated the second year of herbicide treatment was completed. The report from the testing labs of ESS indicated it was not 100 percent successful in eradicating the invasives. So, Solitude Lake Management has recommended a minimum of four years’ worth of treatments. He stated he has asked the Administration, and through the Town Council, for additional CIP money to do it for five years. He stated the Commission members have in their packets the costs as outlined by Solitude. It is now out for a new contract for the RFP as the existing one could not be amended. The hope is to do the third year of treatments in June. He noted this pushes the fish spawning back at least two years. Solitude and ESS are both recommending that if the invasives are not gotten rid of to a point that they can be controlled easily, doing the fish spawning is a waste of money. No action is needed by the Commission.

Commission members asked questions about why the treatments did not work as expected.

Mr. Russell stated they are very sturdy plants.

**Chair and Commission Member Comments**

Mr. Milne asked about the Supreme Court finding that Mr. Russell provided information about and how it affects the Commission.

Mr. Russell stated because the Commission has jurisdiction over priority and estimated habitat.

Mr. Milne asked if it restricts or increases the Commission's jurisdiction.

Mr. Russell stated that depends on how the state is going to handle it; it could do either. His gut feeling is that it is going to increase it.

**Minutes: November 1, 2018 and November 15, 2018**

There was a motion made by Paul Harrington to accept the meeting minutes for November 1, 2018, and November 15, 2018. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Signed Orders of Conditions, Certificates of Compliance & Emergency Certification Form**

Certificate of Compliance – Chestnut Street Senior Village – Donald Ranieri – SE159-918

Certificate of Compliance – 27 Jefferson Rd. – Adams – SE159-174

Certificate of Compliance – Spruce Pond – SE159-853

Orders of Conditions – Well #3 Grove Street – DPW – CE159-1183

Emergency Certification Form – Garelick Farms – 1199 West Central Street

There was a motion made by Jeff Livingstone to adjourn the meeting. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

The meeting adjourned at 7:45 PM.

Respectfully submitted,

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Judith Lizardi  
Recording Secretary