

**Franklin Conservation Commission
Minutes of Meeting
February 14, 2019**

To: Town Clerk
cc: Members
File

Members Present: Bill Batchelor, Paul Harrington, Angela Gelineau, Jeffrey Milne.
Also Present: George Russell, Conservation Agent; Kathleen Celorier, Secretary.
Members Not Present: Jeff Livingstone, Staci Dooney.

Chairman Batchelor 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.

Chairman Batchelor introduced Mr. Alan Wallach, a potential new member of the Commission. He stated that Mr. Wallach has been interviewed by the Town Administrator and Mr. Russell.

Mr. Wallach provided his background and his interest in being a Commission member.

Commission members asked questions and made comments.

Chairman Batchelor requested a vote of recommendation for Mr. Wallach. No Motion or Second given. Vote of 3-0-1. (Ms. Gelineau abstained).

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

Public Hearing – RDA – 12 Addison Avenue – Loureiro

Mr. Tom Rebula, Goddard Consulting LLC, representing the homeowners, addressed the Commission for remediation work for some clearing and debris placement within the buffer zone of a BVW. The homeowners had a landscaper come in and do some pruning in the buffer zone, as well as some stump cutting of trees that are fairly close to the wetland boundary. He described the trees that had been cut down. He stated that the proposed work is for nine replacements for the lost trees. As well, the homeowners were looking to establish some privacy screening between them and their neighbor. They would like to put in a hedge row of arborvitae. Debris removal is also part of the RDA request; the intent is to have all debris removed from the site.

Mr. Milne asked about the original intent of the landscaping and if replacing the trees will provide benefit.

Mr. Anthony Loureiro, homeowner, stated that the area was overgrown and he had just wanted to get it back to where it had been to begin with.

Mr. Rebula explained what had been cut and noted that the stumps will be left in place.

Mr. Russell stated that the report received from Goddard Consulting, dated January 28, 2019, should be entered into the record. He stated the property owner has complied with the Commission's policy by engaging Goddard Consulting, and a report has been prepared. In a similar situation to this, the Commission attached a stipulation that he outlined in his Agent's Report. He stated that a report has been received from the wetland scientist about the after-the-fact situation and it detailed what was done and how it was done. He recommended in lieu of a positive determination that a negative #3 be issued with the stipulation attached, as worded in his Agent's Report; the homeowner is aware of the stipulation.

There was a motion made by Jeffrey Milne to close the public hearing for the RDA for 12 Addison Avenue. 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 recommend a negative #3 for the RDA for 12 Addison Avenue with the following stipulation:

All removal work shall be completed under the direction of a wetland scientist, who shall submit a report and map after the removal of the debris to the Conservation Agent outlining in detail the methods of removal and the exact location of deposition of the leave and debris piles if on the same lot. The report shall detail the conditions of the jurisdictional area after removal, restoration of the jurisdictional area as outlined in the 1/28/19 report and any remediation efforts that were necessary to restore the jurisdictional areas. Failure to submit this report within 30 days after removal shall be considered a violation of the permit and will result in additional legal action for the non-compliance.

The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Public Hearing – NOI – Upper Union Street Solar – Industria Eng.

Mr. Russell stated that based on the new guidance policies from DEP for solar farms, which are included in the Commission members' packets, he requests the Commission authorize peer review for this application.

Chairman Batchelor stated that as the recommendation for peer review most likely will happen, he strongly recommended to the applicant that they not give testimony. He explained that if testimony is given tonight and the peer review comes back with any alteration to the testimony given, and there are new Commissioners and/or a change in Commissioners, there is a problem. Therefore, as he knows there has been two resignations from Commissioners and there will be two new Commissioners, he urged that they do not give testimony.

Mr. Michael Lotti, Industria Engineering, stated he understood.

Mr. Gary Robinson, 9 Mount Street, stated that he believed the Chairman had led the applicant in a certain direction.

Chairman Batchelor stated that he did and he had stated his reasons why he did so.

There was a motion made by Jeffrey Milne for peer review for the NOI for Upper Union Street Solar. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for Upper Union Street Solar to February 28, 2019 at 7:00 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

Public Hearing – RFD – Roosevelt Street – Taddeo/Waldron

Mr. Russ Waldron of AES, representing the applicant, addressed the Commission for some leaf piles that have been deposited in the buffer zone and riverfront area. He stated that Roosevelt Street is a paper street that runs parallel to Wachusett Street. He explained how the leaves have been deposited over time. He stated that the property owner, Mr. Taddeo, cleaned up the area. The material down on the embankment is mostly still there and it was mostly invasives. He said that the material that was cleaned up was literally on the road.

Chairman Batchelor asked Mr. Waldron if he was aware that Mr. Russell had recommended that this go to peer review.

Mr. Waldron stated that he was aware. He stated that he emailed Mr. Russell some photos.

Mr. Russell stated that he was not recommending peer review for this project. He said that he had stated in his Agent's Report, that in a normal course of events, the way the regulations are written, this would require a positive determination.

Chairman Batchelor said he had made a mistake in indicating that Mr. Russell had recommended peer review.

Mr. Waldron stated he had flagged the wetland and the stream.

Mr. Russell asked if the report from AES was entered into the record.

Chairman Batchelor stated it was.

Mr. Russell stated that this complaint originally came from DEP. He stated that if the Commission grants a negative #2 with this stipulation, DEP may not accept it.

Chairman Batchelor stated he would let DEP do that dance.

Mr. Russell explained that he would recommend a negative #2 under this circumstance because the property owner has followed all the Commission's policies on vegetative debris and the recommendation of the wetland scientist is to not go any further in removal than what has already been done.

Chairman Batchelor stated that the Commission is going to accept the report by AES dated January 14, 2019. There will not be peer review.

Ms. Gelineau referenced the two conditions that Mr. Russell had included in his Agent's Report.

Mr. Russell stated that regarding the first condition written in his Agent's Report, his report was written before the work was done. He would still like to get the map.

Ms. Gelineau, Mr. Russell, Mr. Waldron and Chairman Batchelor discussed the re-wording of this condition.

Mr. Russell stated that he is trying to show DEP that the Commission is cognizant of the issues and is getting adequate mapping to make sure there is no further degradations as outlined in AES's report. He stated that the first condition can be scratched; the second condition will remain.

Ms. Gelineau noted that in the second condition the phrase "prior to the removal" should be stricken.

There was a motion made by Jeffrey Milne to close the public hearing for the RDA for Roosevelt Street. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau for a negative #2 for the RDA for Roosevelt Street with the following condition:

All removal work shall be completed under the direction of a wetland scientist who shall submit a report and map to the Conservation Agent outlining in detail the methods of removal and the exact location of deposition of the leave and debris piles. After the material is removed, the wetland scientist shall submit a report outlining the conditions of the jurisdictional area after removal, restoration of the jurisdictional area if necessary and any remediation efforts that were necessary to restore the jurisdictional areas. Failure to submit this report within 30 days after removal shall be considered a violation of the permit and will result in additional legal action for the non-compliance.

The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Public Hearing – Continued - NOI – Grove St. Water Treatment Plant - CDM

Mr. Russell reminded the Commission that this hearing was continued to allow CDM to prepare a response to the letter from the Charles River Watershed Association; that response is available in the Commission members' packets.

Mr. Douglas Martin of CDM Smith and Ms. Magdalena Lofstedt of CDM Smith, representing the Town of Franklin Water Department, addressed the Commission regarding the Grove Street Water Treatment Plant project. Mr. Martin stated that the Town is looking to combine Wells 3 & 6, both off Grove Street, and treat them in a new treatment plant to be located off Grove Street. They will be using the same access road as Well 6. The plant will be able to treat both sources. They will be filtering out iron and manganese from both sources. Well 6 has been offline due to the high amount of manganese and the Town would like to be able to use the sources.

Chairman Batchelor and Commission members asked questions.

Mr. Martin stated that the other Wells do not seem to have the same problem.

Ms. Gelineau asked the applicant to read through some of their written responses.

Mr. Martin briefly reviewed the written response to comment 1. He noted that if the Town were able to increase the draw here, they would be able to decrease the draw at other locations.

Ms. Lofstedt noted that MEPA did not ask CDM to address the comments; they just put the letter in as part of the file. CRWA did not respond to the answers to the questions. It was the Commission that asked CDM to respond to the comments. She briefly reviewed the written responses to the remaining comments.

Mr. Russell, in response to Ms. Lofstedt's review of the written responses, stated that it appeared that CRWA is asking for information beyond the scope of the wetlands regulations. Secondly, the fact that there was no response required to this under the MEPA filing, because they did meet the thresholds for the MEPA filing, indicates that the state has no issues, problems, etc., with what they are proposing to do.

Mr. Harrington asked where the heavy sediments go that are being treated out.

Mr. Martin stated that within the treatment plant there will be a residual basin; they will be allowed to settle out. The non-sediment portion will be recycled to the plant to be retreated. The sediment will be pumped out to a sewer pump station and pumped to Old Grove sewer manhole into the sewer system.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for Grove Street Water Treatment Plant. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau to approve the NOI for Grove Street Water Treatment Plant with special conditions #20, 23, 24, 27-30, 33-35, 38-41, 44 and 51. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Public Hearing – Continued - NOI – Spring Street Renewables – Andrews Eng.

Mr. Russell stated the NOI number has been received. However, the final peer review report has not been received. He recommended this item be continued; the applicant has agreed. He stated that they are still having a legal issue concerning the signatures on the application.

Mr. Steven O'Connell of Andrews Survey & Engineering Inc., Ms. Natasha Meehan, NEXAMP, and Mr. Alan Clapp, NEXAMP, addressed the Commission. Mr. O'Connell stated a preliminary peer review has been received; however, not the final. He asked why the Commission would not want input from the Commission members.

Chairman Batchelor stated that input could change based on what the peer review comes back with, and there are Commission members missing tonight and new Commission members will be added to the Commission which creates a real problem.

Mr. O'Connell asked if the Commission has adopted the Mullin Rule.

Chairman Batchelor stated the Mullin Rule does not affect new members who have no standing when the testimony was taken.

Ms. Gelineau stated she is leaving next month and another Commission member has resigned. Two new members will be coming in.

Mr. O'Connell stated there are existing members who are not here tonight but could review the testimony given.

Chairman Batchelor stated he does not like taking testimony when reports are not final. He is providing his opinion based on experience. He discussed the Mullin Rule and quorum issues with Mr. O'Connell.

Mr. Harrington noted that he is fine if the applicant wishes to proceed; his only concern is that the final peer review report is not in. He noted he will not be attending the next Commission meeting.

Mr. O'Connell stated his preference is to go forward. They have prepared revisions to the initial plan set already.

Mr. Milne stated that he needed to recuse himself from this public hearing.

Chairman Batchelor stated that therefore, the applicants cannot give testimony as there will be only three Commission members and there will be no quorum.

Mr. Russell stated that in keeping with the Commission's policy, the hearing must be continued from meeting to meeting to meeting.

Chairman Batchelor stated that new Commission member Alan Wallach would not be voted in by the Town Council until March 13, 2019.

There was a motion made by Paul Harrington to continue the public hearing for the NOI for Spring Street Renewables to February 28, 2019 at 7:05 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 3-0-1. (Mr. Milne abstained).

Public Hearing – Continued - NOI – 27 Forge Parkway – Guerriere & Halnon

Mr. Russell stated he has authorization from the applicant to continue the hearing as peer review is not completed and final plans have not been developed.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 27 Forge Parkway to February 28, 2019 at 7:10 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

Public Hearing – Continued - NOI – 1111 Pond Street – Pruyn

Mr. Russell stated he has all the final peer review reports; this is ready to go forward.

Mr. Paul DeSimone, the owner's representative, addressed the Commission. He passed out plans dated January 23, 2019, Revised, to the Commission members. He stated the owners are present at tonight's meeting. They would like to build a single-family home on the property of 4.85 acres. He described the location on the plans and said it has a very long driveway, over 600 ft., to get to the house. They had wanted the house closer to the road, but due to wetlands disturbances, they were forced to push it back to get under the 10 percent required by the Rivers Protection Act. He stated the total disturbance to the resource areas is 14,641 sq. ft. He explained that the previous owner made a deal with the Town. They had dug out a specific area for a detention area and put in their drainage, and the Town would put in the water and sewer service, which they did. Those are in place right now. He showed the location on the plan. He stated the current proposal is to take the sewer and water and run it along the driveway up to the new house. He noted that the driveway will be paved in the beginning and near the house, the rest will be crushed bluestone. The structures are .99 percent; the impervious and the structure is 1.55 percent. For mitigation, they are proposing 16 shrubs as shown on the diagram. He discussed the topography; he discussed the review comments received by Lenore White of WSI in her report dated January 24, 2019. He noted the house was moved in response. He confirmed the area is Flood Plain A. He stated they meet the standards and have proposed mitigation.

Mr. Russell stated that he wanted to enter into the record the report received by Lenore White of WSI dated January 24, 2019, which indicates the proposal as finally submitted meets the statutory and regulatory requirements for approval. He also noted that when the project was originally submitted, the project called for over 33,000 sq. ft. of disturbance; that has been cut by more than 50 percent. He recommended approval with the stipulations outlined in his Agent's Report.

Commission members asked questions about the location of the property and disturbance areas.

Mr. DeSimone responded to the questions and showed locations on his provided plans. He confirmed no machines or vehicles have been brought in yet.

Mr. Russell stated that if the applicant tries to move things around to decrease disturbance, they may decrease it in one area, but increase it in another.

Ms. Gelineau stated that it is good that they reduced the disturbance from 33,000 sq. ft. to 14,641 sq. ft.; however, if someone else came in and noted a disturbance of 14,641 sq. ft. to begin with, that would be a lot.

Mr. Harrington stated there is still 320 ft. of no-disturb zone being disturbed. He stated it seems like this should not be developed based on where it is. He does not think he can vote for it.

Mr. DeSimone pointed out the area of great concern was created by the Town for drainage that the previous owner did so they could get water and sewer; he cannot move it.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for 1111 Pond Street. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

There was a motion made by Jeffrey Milne to approve the NOI for 1111 Pond Street with special conditions #20-24, 27-30, 34-41, 44, 46, 47 and 51. The motion was seconded by Angela Gelineau and accepted with a vote of 3-1-0. (Mr. Harrington voted no.)

GENERAL BUSINESS

Minor Buffer Zone Activities: 58 Elm Street

Mr. Russell stated that it was his recommendation that the applicant file the MBZA due to the Commission's policy that hazardous trees can be removed without an NOI in place. He would have approved it administratively, but it is in two resource areas; therefore, it had to come to the Commission.

Mr. Thomas Fleischer stated that one 60-70 ft. tree, broke its base and is resting on another tree. If it were to fall, it is in striking distance of the house, the driveway, and the power lines. The second tree is leaning at almost a 45-degree angle; he noted the proximity to the house as shown in the provided photographs. He stated an arborist diagnosed it as having a disease. They have an estimate from Tree Tech stating that they will remove both trees to a low stump.

Chairman Batchelor stated they are dealing with the eminent danger rule.

There was a motion made by Jeffrey Milne to approve the MBZA for 58 Elm Street. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

Permit Modifications/Extensions: 300-340 East Central Street – CE159-1106 & 1107

Mr. Russell stated there is no reason why this should not be extended. He noted there are two NOIs. It is all the same applicant and same project and can be all done in the same motion, but there will be two forms to sign.

There was a motion made by Jeffrey Milne to grant the permit extension for 300 and 340 East Central Street – CE159-1106 & 1107. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Permit Modifications/Extensions: 176 Cottage Street

Mr. Russell stated there is no reason why this extension should not be granted. He noted that he left the word “not” out of his Agent’s Report.

There was a motion made by Angela Gelineau to grant the permit extension for 176 Cottage Street for one year. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Permit Modifications/Extensions: 137 Mastro Drive

Mr. Russell stated that he talked to the applicant on this. The applicant has agreed in writing to accept the re-imposition of stipulation #20 with the extension. He noted that the erosion control barriers that were originally put down are no longer there; they biodegraded.

There was a motion made by Angela Gelineau to grant a final one-year extension on the permit for 137 Mastro Drive with the stipulation that the original stipulation #20 must be redone since all the original barriers have failed. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Certificate of Compliance: Rolling Brook Estates

Mr. Russell stated this is ready to go forward. The caveat is outlined in his Agent’s Report. There is an erosion problem on the left side of the roadway driving into the development. The applicant has addressed it, but it cannot be adequately addressed until grass grows which will be in the spring. The Town Engineer is aware of it. He noted that the Town will not accept the road or the basin if the erosion problem persists.

There was a motion made by Jeffrey Milne to accept the Certificate of Compliance for Rolling Brook Estates. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Minutes: January 17, 2019

Commission members stated they accepted the meeting minutes for January 17, 2019 with a vote of 4-0-0. (No Motion or Second was given.)

**Signed Minor Buffer Zone Activity, Orders of Conditions, Determinations of Applicability,
Extension Permits & Certificate of Compliance**

Minor Buffer Zone Activity – 58 Elm Street – Fleischer
Extension Permit – 340 East Central Street – Halligan – CE159-1107
Extension Permit – 300 East Central Street – Halligan – CE159-1106
Extension Permit – 137 Mastro Drive – Lewis – CE159-1058
Extension Permit - 176 Cottage Street – Staniscia – CE159-1060
Certificate of Compliance – Clearview Drive – TNT Building – CE159-1124
Determination of Applicability – Roosevelt Street – Taddeo
Determination of Applicability – 12 Addison Ave. – Loureiro
Orders of Conditions – 340&350 Grove Street – DPW – CE159-1197
Orders of Conditions – 1111 Pond Street – Pruyn – CE159-1192

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

The meeting adjourned at 8:29 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary