

Town of Franklin



Conservation Commission

**May 26, 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 Training Room, third 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, Andrew Mazzuchelli, Richard Johnson (via Zoom), Patrick Gallagher, Michael Rein. Absent: None. Also present: Breeka Li Goodlander, Conservation Agent; 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 – Continued

Ms. Heidi Graf of BSC Group addressed the Commission for the maintenance work of the New England Power Company easement that runs across Franklin. She provided a review of the April 28, 2022, Commission meeting. She stated that the request is to inspect 42 poles. The PIT inspection is a regular 10-year inspection. It requires small excavations around the poles to inspect for damage. She stated that she provided a memo submitted on May 10, 2022, addressing outstanding comments and deficiencies originally presented in the RDA and answering most of the outstanding comments including concerns with access, temporary impacts, and restoration.

Ms. Goodlander stated that the comments were all answered. She reviewed that many of the structures are underwater. The memo stated that onsite determinations are made to skip a given structure if the structure is under standing water or if a wetland system is too large and unsafe to access on foot. If crews encounter a structure in standing water, per the memo, they generally do a visual inspection and continue on since they cannot dig within water. If they are digging and encounter a shallow water table, crews stop and treat what is above the waterline if they determine that is needed. No dewatering is necessary. She noted that the memo states that native seed and topsoil will be preserved, as to backfill the excavated hole once the structure has been treated. She stated that she recommended a negative determination with standard special conditions. She noted that the applicant will not be monitoring during excavation or restoration. She stated that she is concerned about the type and status of restoration within wetland areas and potential transfer of aerosols into the water table. She stated that she would like to know when construction is starting and finishing.

Ms. Graf confirmed that at this time there is no restoration monitoring. She confirmed that she had no difficulty in letting Ms. Goodlander know when they start and finish.

There was a motion made by Patrick Gallagher to close the public hearing for the RDA for New England Power Company PIT Maintenance. 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; Johnson-Yes; Rein-Yes; Batchelor-Did not state his vote.

There was a motion made by Patrick Gallagher to recommend a negative determination for the RDA for New England Power Company PIT Maintenance with special conditions #24, 27, 28, 29, 30, 31, 35, 37, 46, 47, 48, 49, and 50, and adding a condition that the applicant conduct sweeps within the vernal pool (VP) buffer zone if working during VP breeding season, and that the applicant notify the agent when maintenance is complete to ensure compliance with conditions. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 7-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – NOI – 585 King Street – Continued

Mr. Mark Manganello (via Zoom) of LEC Environmental and Mr. Josh Berman (via Zoom) of Marcus Partners, applicant, 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 he understands there are two review letters: one from BETA and one from WSI. They intend to respond in writing at some point in the next week. They have made progress in addressing some of the comments.

Chair Batchelor stated that it is highly unlikely that the Commission members will comment based on just the presentation. He stated that all materials must be received one week before the Commission meeting. Mr. Manganello stated that he understood; the information was sent over late today. He attempted to share his screen to review the plans; however, the technology was not working. Chair Batchelor stated this will go to June 9th as there are open issues that need to be resolved. He stated that anyone who has questions should tune in on June 9th.

There was a motion made by Patrick Gallagher to continue the public hearing for the NOI for 585 King Street to June 9, 2022, at 7:02 PM. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 7-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – NOI – 839 Upper Union Street – Continued

Mr. Mazzuchelli recused himself.

Mr. Nick Dewhurst (via Zoom) of Bohler Engineering and Mr. Josh Swerling (via Zoom) of Bohler Engineering 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. Mr. Dewhurst stated that they were in the process of addressing any outstanding comments from Mr. Gary James of BETA from the Planning Board review. He noted that the Commission wanted them to resolve those issues before closing the Commission hearing in case anything would affect a resource area. He stated that they have addressed all Mr. James's and DPW's comments, and they have had a few meetings with Ms. Goodlander. The changes that they made to the plans in addressing BETA's comments regarded only one minor change in the wetlands which was adding a small pipe that picked up an area drain and

directing that to the wetlands to match the flows from stormwater runoff today; other than that, everything else has stayed the same.

Ms. White stated that she has no further comments; she stated that the issues were stormwater related so that is BETA's area. Mr. Gary James (via Zoom) of BETA stated that Bohler put an area drain in to match the stormwater design runoff volumes. Ms. Goodlander noted that there was a slight increase in peak flow rates with the latest Bohler design, but matching the volume of runoff is more important as per BETA. She recommended approving the project with standard special conditions.

There was a motion made by Patrick Gallagher to close the public hearing for the NOI for 839 Upper Union Street. The motion was seconded by Jeff Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

There was a motion made by Patrick Gallagher to approve the NOI for 839 Upper Union Street with standard special conditions #24, 27, 28, 29, 30, 31, 35, 37, 46, 47, 48, 49, and 50. The motion was seconded by Jeff Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Mr. Mazzuchelli re-entered the meeting

GENERAL BUSINESS

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: 1061 Upper Union Street CE159-1198-OOC Extension

Ms. Goodlander recommended granting the extension.

Mr. Mike Lotti (via Zoom) of Industria Engineering, Inc., on behalf of the applicant, requested a one-year extension. He stated that they are about 90 percent done with the project.

There was a motion made by Patrick Gallagher to approve the one-year extension for 1061 Upper Union Street CE159-1198-OOC Extension. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 7-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Certificates of Compliance: SNETT Tunnel Prospect Street CE159-1208

Ms. Goodlander stated that she did a site visit. She did not see any issues related to conservation. She recommended granting the Certificate of Compliance.

There was a motion made by Patrick Gallagher to approve the Certificate of Compliance for SNETT Tunnel Prospect Street CE159-1208. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 7-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Violations/Enforcement: Fairmount Farms-Enforcement Order Extension

Ms. Goodlander stated that there was an enforcement order on February 17, 2022, for fill within an isolated vegetative wetland and stockpiling fill within the 100 ft. buffer zone. The restoration plan for the enforcement order was due last Thursday; she stated that as of today, she has not received a restoration plan. However, she has been in contact with the property owner and the consultant. She stated that she received something before this meeting. She stated that she is comfortable in extending the time period

for them to submit a restoration plan until next Thursday. She stated that if by next Thursday they do not receive the materials, follow-up legal action can take place.

Mr. Brandon Faneuf (via Zoom) of Ecosystem Solutions, Inc. addressed the Commission. He stated that there was some delay due to snow cover to do the job. He stated that they were very busy but what complicated this was that the enforcement order had in it that the resource area is an isolated vegetative wetland meaning that it is wetland that is not jurisdictional under 310 CMR 10 but only jurisdictional under the local bylaw. When they went to the site, they found the wetlands were more extensive and they are actually dealing with a BVW. He stated that he had visuals and would be happy to explain them.

Chair Batchelor stated that since the Commission does not have any materials, he is going to ask Mr. Faneuf not to do that. He stated that Mr. Faneuf was in violation of the drop-dead date to get materials to the Commission. He stated that the Commission needs one week to look at everything. He stated that he is not going to waste the time of the commissioners without having the materials in front of us. He stated that he is going to rule the following and then ask for a vote: Any and all materials regarding the enforcement order for Fairmount Farms be in the hands of the Franklin Conservation Agent and office no later than next Thursday, June 2, 2022; if that date is missed, he is asking the conservation agent to get an email out to the commissioners such that they may take punitive action regarding the violation. He asked Mr. Faneuf if he had any questions about that. Mr. Faneuf said no. Chair Batchelor stated that if for some reason a situation occurs that is really out of left field, he urged Mr. Faneuf to get to the agent as quickly as possible such that we can get communicated with and try to understand the dilemma because without that next Thursday is our drop-dead date. He asked how the commissioners feel. All commissioners stated agreement. Chair Batchelor stated that this will be continued to the June 9th meeting with the caveat that June 2, is the drop-dead date.

Minutes: April 28, 2022

There was a motion made by Jeff Livingstone to approve the meeting minutes for April 28, 2022. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 4-0-1. Roll Call Vote: Milne-Yes; Livingstone-Not asked to vote; Gallagher-Not asked to vote; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Abstain.

Discussion Items: Commissioner Term Renewal Discussion: Jeff Livingstone

Chair Batchelor stated that Mr. Rein, Mr. Livingstone, and Mr. Mazzuchelli's terms were up for renewal. Mr. Rein stated that he would like to be reappointed. Mr. Mazzuchelli stated that he would like to be reappointed. Mr. Livingstone stated that he would like to be reappointed. Chair Batchelor stated that this is one of the strongest commissions he has worked with in 10 years.

Discussion Items: Earth Day Post-Event Review

Mr. Livingstone stated that the locals have been taking very good care of the property. He found very few pieces of trash which was much different than about 18 months ago. He stated that his impression is that the town has seen this as their own and they want to protect it. He stated that the citizens are trying hard. It was great to see how many people brought their kids and the kids were engaged. People are bringing their families out and getting them engaged to protect the property. Chair Batchelor acknowledged Big Y. He thanked Mr. Paslaski and Ms. Goodlander for the work they did. Mr. Livingstone stated that people commented on the posters; they were very well done. Chair Batchelor stated that he thinks DelCorte is one of Franklin's jewels. He noted the investments in capital and human capital in DelCorte. He thanked everyone for what they have done to create this wonderful area of nature that children and adults can enjoy. Commission members noted the great job the Eagle Scout did on the signs.

Chair and Commission Comments: None.

Executive Session: None.

There was a motion made by Jeff Livingstone to adjourn the meeting. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 7-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

The meeting adjourned at 7:54 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary