

**Rochester Conservation Commission  
November 17, 2020**

**Present:** Michael Conway, Chairman  
Daniel Gagne, Vice Chairman  
Léna Bourque  
Christopher Gerrior  
Maggie Payne

**Absent:** Kevin Thompson

Laurell J. Farinon, Conservation Agent  
Blair Bailey, Town Counsel  
Tanya Ventura, Board Administrator  
Marissa Perez-Dormitzer, Recording Secretary

The meeting convened by telephone and video conference via Zoom Meeting ID: 864 7673 6185. Chairman Conway called the meeting to order at 7:05 p.m. and took attendance of Members, staff, applicants, and representatives. Chairman Conway read a message about remote participation and ground rules for the meeting. He stated the meeting was being recorded. Each presentation was limited to 10 minutes and 3 minutes were allowed for public comment. Chairman Conway stated that votes would be taken by roll call.

**DEP SE 272-0585 A Request for a Certificate of Compliance** was made by Ryan Correia, Potential Properties, LLC, 91 Sarah Sherman Road, Rochester, MA 02770, for work completed on 1008 Walnut Plain Road, Map 23, Lot 18A.

Agent Farinon reported that a letter was submitted by Zenith Consulting Engineers, LLC indicating all the work was completed except for the lawn not being stabilized. She visited the property and observed that the lawn was loamed and seeded but not yet germinated. There was debris near the wetland the Commission asked to be removed. Agent Farinon spoke with Mr. Correia who agreed to wait until spring to come back to the Commission with the request for a Certificate of Compliance. Chairman Conway asked if Mr. Correia would sell the property in the meantime. Agent Farinon responded yes. Chairman Conway asked how long the issue should be continued. Agent Farinon and Town Counsel Bailey verified the Commission did not need to continue to a certain date since it was an administrative issue.

**Public Meetings**

**A Request for Determination of Applicability filed by Tata & Howard, 67 Forest Street, Marlborough, MA 01752, on behalf of the applicant, Marion Department of Public Works, 50 Benson Brook Road, P.O. Box 1050, Marion, MA 02738, for proposed work at 0 Marion Road, Rochester, MA 02770 designated as Lot 5 on Rochester Assessors Map 8.** The applicant proposes to construct a new chemical feed building to treat raw water from the Mary's Pond Wellfield and the East and West Wells. The majority of work is located outside of the 100-Foot Buffer Zone and Riverfront Area to Doggett's Brook. Work within the Commission's jurisdiction includes installation of buried electrical conduit, sample line and water service. All work is temporary in nature and will be within an existing gravel driveway. Siltation control measures will be implemented.

Matthew Morganelli, P.E., of Tata & Howard shared his screen showing the site plan. He described the location of the project. He explained that the Marion Department of Public Works was going to upgrade the chemical feed buildings to treat water from Mary's Pond Wellfield and the East and

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West Wells that are currently offline. The site contains wetlands and a riverfront area from Doggett's Brook. Most of the work was outside the 100 Foot Buffer and the 200 Foot Riverfront area. Minor proposed work in the buffer zone or riverfront areas included a small diameter water line for sample tubing and to support domestic water service to the building as well as a buried signal conduit to power the new facility. Mr. Morganelli stated they are proposing erosion control measures where there are any possible impacts.

Member Bourque asked to confirm there was an existing chemical building. Mr. Morganelli explained there are existing buildings, and one will be demolished. A new building will be constructed, and all operations will be consolidated in the new building. Member Bourque asked what chemicals are being used in the building. Mr. Morganelli said they were using sodium hydroxide, sodium silica, and occasionally chlorine as needed.

Member Gerrior asked if any roads will be added or removed and Mr. Morganelli said no. Member Gerrior asked if the project related to the pump house on Mary's Pond Road. Mr. Morganelli responded yes and noted the pump house pumps water to the site being discussed for treatment. Member Payne noted the wells were currently offline and asked if there will be more water pumping in the future. Mr. Morganelli responded yes and noted the Town was looking for more capacity with the wells. He stated the maximum design flow is 400 gallons per minute.

Chairman Conway asked about secondary containment for the chemicals. Mr. Morganelli explained there will be secondary containment inside the building for each chemical. He noted the piping and storage will all be inside the building. Chairman Conway asked about possible leaks in the piping. Mr. Morganelli responded that the most probable points of leaking were in the secondary containment. If there was a leak elsewhere, the chemical would gather inside the facility which is on a slab. He explained the chemicals were in a liquid feed system designed in compliance with the Massachusetts Department of Environmental Protection (MassDEP). Member Gerrior asked for a copy of the regulations related to feed systems for the chemicals involved. Member Bourque noted the three wells had not been used in a while and asked how he anticipated the drought would affect the wetland area around it. Mr. Morganelli responded that the pumping from well testing had shown to not have any impact on the surrounding wetlands.

Agent Farinon explained that the Request for Determination of Applicability (RDA) filing was for a minimal amount of work in the Commission's jurisdiction. She reported there is an intermittent stream running under the roadway, bordering vegetated wetland to the south, and a 200 Foot Riverfront area to the south and west. She shared her screen showing photos of the site including the access road, the northerly chemical feed building, a westerly building, and Doggett's Brook. Agent Farinon recommended issuing a negative Determination of Applicability with the stipulation that the requested information be submitted to the Commission office.

A motion to issue a negative Determination as stipulated by Agent Farinon was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**Public Hearings**

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*(Continued from October 20, 2020)* **DEP File # 272-0600 An Abbreviated Notice of Resource Area Delineation filed by Ryan Young of CVE North America, Inc., 109 W. 27<sup>th</sup> Street, 8<sup>th</sup> Floor, New York, NY 10001, for property located at 0 Neck Road, designated as Lot 5 on Rochester Assessors Map 28.** The purpose of the filing is to confirm 2,940 linear feet of bordering vegetated wetland boundary. The property owners are Henry & Bonnie Hartley, Trustee, The Bonnie L. and Henry A. Hartley Trust, 267 Vaughan Hill Road, Rochester, MA 02770. The applicant's representative is Richard Tabaczynski of Atlantic Design Engineers, Inc., P.O. Box 1051, Sandwich, MA 02563.

Chairman Conway stated the applicant requested a continuance to December 1, 2020 to complete a third-party review. Agent Farinon reported the peer review consulting fee had been received and she had retained the services of Horsley Witten Group. She expected a report the next week.

A motion to continue the Public Hearing to December 1, 2020 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

*(Continued from November 4, 2020)* **DEP SE# 272-0596 A Notice of Intent filed by Featherbed Lane South Solar, LLC, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772, for property located at 0 Featherbed Lane, designated as Lot 24 on Rochester Assessors Map 46.** The applicant proposes to install an approximate 2.5 MW DC ground-mounted photovoltaic solar array on an estimated 59-acre property at 0 Featherbed Lane. The project involves work within the 100 Foot Buffer Zone to a bordering vegetated wetland and is located within the Estimated and Priority Habitat for Rare and Endangered Species. The proposed work includes converting a tract of forested upland to install the array, access road, equipment pad, and stormwater management features. The applicant's representative is Eric Las of Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772. The property owner of record is Judith DuPont, 123 Rounseville Road, Rochester, MA 02770.

*(Vice Chairman Gagne recused himself from the Public Hearing.)*

Eric Las, P.E. and Principal, of Beals and Thomas, Inc. reported that since their first Public Hearing on August 18, 2020, they have been addressing the peer review comments from Environmental Partners. He stated their team was open to a site walk with the Commission. They have done some initial flagging for the Planning Board's site walk and were looking for information on the Commission's requirements. Mr. Las noted he was aware that additional funds would be needed for peer review along with re-advertising and re-notification of abutters.

Chairman Conway asked if Mr. Las suggested waiting to discuss the project until the peer review process was complete. Mr. Las stated it would be helpful to have the peer review and site walk complete. Then they would incorporate all the comments into a final set of plans. Agent Farinon stated that the project would need to be continued to the December 15, 2020 meeting due to advertising deadlines. She recommended an additional \$2,500 for peer review. She mentioned their team was using the term flagging and suggested that staking was the more appropriate term.

Mr. Las shared his screen showing a plan with numbered flagged locations prepared for the Planning Board's site walk that included the proposed limit of work and other key points. He noted

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they could supplement the plan with what the Commission wanted staked. Agent Farinon asked the distance between two of the stakes and Mr. Las responded 175 feet. Agent Farinon stated they should have staking within any proposed work in the Commission's jurisdiction. She noted she would like to see points closer than 175 feet, especially in the easterly basin which is a critical area. She suggested that Mr. Las send her the diagram so she can mark it to indicate the distances the Commission would typically need to see on a site visit.

A motion to continue the Public Hearing to December 15, 2020 and to include a \$2,500 peer review additional was made by Member Gerrior and seconded by Member Bourque. **The motion passed in a roll call vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

Members agreed to a site visit on December 6, 2020 at 9:00 a.m.

*(Vice Chairman Gagne resumed his role in the meeting.)*

**(Continued from October 20, 2020) DEP SE # 272-0597 A Notice of Intent filed by Snipatuit Road Solar, LLC, P.O. Box 1320, Portsmouth, NH 03801, for property on 0 Snipatuit Road, designated as Lots 26, 27 on Rochester Assessors Map 46 and Lots 1, 4, 9, and 9A on Rochester Assessors Map 47.** The applicant proposes tree clearing, grading, construction of a perimeter access roadway, stormwater collection system and installation of portions of a 4.8 MW DC ground- mounted solar photovoltaic array within the 100-foot Buffer Zone to Bordering Vegetated Wetlands. Proposed work is located within Estimated and Priority Habitat for Rare and Endangered Species, and is located within the Mattapoissett River Valley Watershed. A certified vernal pool is located within the central wetland to the south of the existing access drive and another two certified vernal pools are located on the west side of the property. The applicant's representative is Beals and Thomas, 144 Turnpike Road, Southborough, MA 01772. The property owners of record are Kevin J. and Cassandra A. Cassidy, 529 Snipatuit Road, Rochester, MA, 02770, Aquidneck Nominee Trust, ET AL, Lisa Holden, Trustee, P.O Box 388, Rochester, MA 02770 and Rochester Realty Trust, P.O. Box 388, Rochester, MA 02770.

*(Vice Chairman Gagne recused himself from the Public Hearing.)*

Chairman Conway stated the applicant requested a continuance to December 1, 2020 because they were awaiting peer review comments. Agent Farinon mentioned the form completed by the applicant's representative asked for a continuance to December 15, 2020.

A motion to continue the Public Hearing to December 15, 2020 was made by Member Gerrior and seconded by Member Bourque. **The motion passed in a roll call vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

*(Vice Chairman Gagne resumed his role in the meeting.)*

**(Continued from October 20, 2020) DEP SE# 272-0587 A Notice of Intent was filed by Steen Realty & Development Corp., 3 Ledgewood Boulevard, Dartmouth, MA 02747 for properties located at 22 Cranberry Highway, designated as Lots 41C and 50 on Rochester Assessors Map 17.** The Notice of Intent application is for work located entirely within the 100 Foot Buffer Zone to a wetland resource area located at 22 Cranberry Highway in Rochester. The scope of work includes

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associated grading and drainage outfall installation associated with the development of 208 residential units and commercial space within the Cranberry Highway Smart Growth Overlay District. A majority of the work will occur within previously altered/disturbed areas.

Chairman Conway stated the applicant requested a continuance to December 15, 2020 because they are awaiting a decision from the Planning Board.

A motion to continue the Public Hearing to December 15, 2020 was made by Member Gerrior and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**Commission Business**

**For Signature**

**Minutes**

After a motion was made to accept the minutes of November 4, 2020, Town Counsel Bailey advised that there was not a quorum. Chairman Conway stated they would wait until the next meeting.

**Vouchers**

The following vouchers were included in the meeting agenda for approval:

Staples/Office Supplies/Split with Planning Board: \$42.13

W.B. Mason/Printer Ink for Agent & Board Admin/Split with Planning Board: \$85.35

A motion to accept the vouchers for \$42.13 and \$85.35 was made by Member Gerrior and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**New Business**

**Review and approve Tree Removal Request Application Adoption**

**Review and approve Tree Removal Regulation under Rochester Wetlands Bylaw**

Agent Farinon reported they were continuing the discussion about the Tree Removal Request Application and the Tree Removal Regulation under Rochester Wetlands Bylaw from the previous meeting. She noted Chairman Conway had a few questions for Town Counsel. She reiterated the purpose of the new regulation was to have an administrative approval process to allow a property owner to remove a minor number of trees close to a structure that were a danger. The new regulation was drafted to handle these situations as expeditiously as possible.

Vice Chairman Gagne expressed a concern that they were creating a permitting method the Commission did not have the right to do because it is not in the Bylaw. He asked if it was different than an RDA and suggested there was an emergency permit available if needed. Town Counsel Bailey reported that it was allowed under the authority of the Wetlands Act. He explained there are some situations that do not require a formal filing. If an RDA were necessary, the Commission could require a formal filing. Town Counsel Bailey noted the emergency permit was only for health and safety, not for property damage. Member Gerrior asked about the cost difference between an RDA and the proposed tree permit. Chairman Conway stated there was a small fee for the tree

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permit and it would not require advertising in the newspaper. Agent Farinon noted the fee for an RDA is \$50.00. She added that with an emergency certification, the applicant would be required to file after the fact, and it would not be appropriate use of the Emergency Certification provision.

Member Bourque asked if a filing requires engineering which could be a significant expense. Agent Farinon responded that filings do not necessarily require engineering. She explained the RDA process was simple and a homeowner could submit an aerial photograph or a copy of a site plan along with a \$50 filing fee and a \$35 ad in The Wanderer. Agent Farinon noted that the new regulation was about working expeditiously with property owners when there is an imminent threat.

Chairman Conway asked how many trees were cut down under similar permits. Agent Farinon responded that the protocol refers to a few. She noted that individual Commission Members could also review the permits so they could be handled as quickly as possible. Vice Chairman Gagne stated the procedure was redundant and he would prefer to eliminate the RDA fee for tree removal. Agent Farinon reported that with an RDA if a leaning tree were about to fall on someone's house, it could take three weeks until it is presented at a meeting. Town Counsel Bailey noted that if the situation were not an imminent threat, Agent Farinon would direct the property owner to file and RDA. He added that Agent Farinon would make the determination if the tree is an imminent threat. Agent Farinon reported that the Commission has urged design engineers for new housing developments to look at what is nearby to avoid having them come back later for approval.

Member Gerrior asked is they could make the regulation sundown within a year and then revisit it. Town Counsel Bailey said it was possible. He mentioned there had been concern about what to call the new procedure. He stated that a policy applies procedurally such as a policy on readvertising after a certain number of continuances. A regulation is an enforceable rule.

A motion was made for the Commission to adopt the tree removal request number 3 and for it to expire a year from when it is voted in was made by Member Gerrior and seconded by Member Bourque. Vice Chairman Gagne was opposed. **The motion passed in a roll call vote of 4 in favor, 1 opposed, 0 abstained (4-1-0).**

Chairman Conway asked if they wanted to discuss disposal of the cut trees. Town Counsel Bailey stated there was some discretion. He noted there were occasions when a property owner may want to cut down a tree in a resource area and leave the material. Member Bourque asked if Agent Farinon would do a write-up for each permit after she reviews them. Agent Farinon reported each situation would be brought up to the Commission at the next meeting. She stated she could provide a report along with photographs in her report. The report could also include her recommendations on the disposal method and whether the stump should be left in place. Agent Farinon noted in most instances she would advise that the stump be left in place.

A motion to accept the tree removal request application with an amendment for tree or stump removal drafted by Town Counsel Bailey was made by Member Gerrior and seconded by Member Bourque. Vice Chairman Gagne was opposed. **The motion passed in a roll call vote of 4 in favor, 1 opposed, 0 abstained (4-1-0).**

**Confirm member availability for future site visits and meetings**

All Members present confirmed they could attend the next meeting on December 1, 2020.

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**2021 Meeting Dates Revisited**

Agent Farinon explained that holding meetings on Wednesday evenings instead of Tuesday would reduce the time between when applications are filed and heard. She stated that it was related to the time frames between advertising deadlines and meeting dates. Vice Chairman Gagne asked if the Commission could work with a newspaper with a more accommodating schedule. Agent Farinon responded that the Standard Times was more expensive and noted The Sentinel was published on Thursdays, like The Wanderer. Town Counsel Bailey explained the regulations require advertising in a newspaper of general circulation in the jurisdictional area. The notification must be printed and cannot be in the online version of a newspaper. Town Counsel Bailey stated the meeting room was open on the first and third Wednesday of each month. Chairman Conway suggested coming up with a new meeting schedule. Members present agreed the proposed meeting schedule worked for them. Member Bourque noted they would need to check with Member Thompson.

**Adjournment**

The meeting adjourned at 8:30 p.m. on a motion made by Member Gerrior and seconded by Member Bourque. Member Bourque noted she enjoyed being part of the group and said that Chairman Conway was doing a great job. Vice Chairman Gagne was opposed to the motion. **The motion passed in a roll call vote of 4 in favor, 1 opposed, 0 abstained (4-1-0).**

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Marissa Perez-Dormitzer, Recording Secretary

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Michael Conway, Chairman