



City of Peabody  
**Conservation Commission**

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City Hall • 24 Lowell Street • Peabody, Massachusetts 01960 • Tel. 978-538-5782

**MINUTES**

**FEBRUARY 9, 2022**

**Via Zoom ID 857 3413 0501**

Pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, G.L. c. 30A § 18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place *as extended on June 15, 2021 with the Governor signing of Senate Bill # 2475 Suspending certain provisions of the Open Meeting Law*, allowing public bodies greater flexibility in utilizing technology in the conduct of meetings under the Open Meeting Law, this meeting of the Peabody Conservation Commission was conducted via remote participation to the greatest extent possible.

**MEMBERS PRESENT**

Chairman Stewart Lazares  
Vice Chairman Michael Rizzo  
Sec. Michael Vivaldi  
Bruce Comak  
Travis Wojcik (left at 8:30)  
Alt. RitaMarie Cavicchio

**MEMBERS ABSENT**

Amanda Green  
Arthur Athas

**Also Present:** Ward 3 City Councillor Stephanie Peach; Lucia DelNegro,  
Conservation Agent

CHAIRMAN LAZARES CALLED THE MEETING TO ORDER at 7:00 pm

In the absence of Commissioner Athas Alternate RitaMarie Cavicchio had voting rights.

Chairman Lazares announced that the Salem Country Club alleged violations would not be discussed. It will not be discussed due to a clerical error in public notification. There will be a special hearing and the time and day will be announced at a later date.

► **TREE REQUESTS- 629 Lowell Street others TBD**

**Present:** Russell Webber (Facilities Manager-NFI Lakeside Detention)

**Summary:** Chairman Lazares briefly mentioned debris along the resource left by another unknown entity. The debris has been removed. The representative for the property owner was asking permission to remove one dangerous large maple tree on site. It abuts the parking lot and has been leaning recently towards cars and the building. **Discussion ensued.** Work is allowed with the following conditions: **1)** All staging (crane, chipping, stockpiling etc.) shall take place as far from the resource as practicable; **2)** One (1) tree as shown on the Tree Removal Request Application can be removed. The stump must remain 2-3 feet to promote regrowth. The stump cannot be grinded or grubbed; **3)** All tree refuse (branches and removed tree material) shall not be placed in the resource area or buffer zones. All material must be placed on existing parking lot AND removed from site immediately. Wood chipping is NOT allowed along the resource area without permission from the Agent.

**Motion** to approve as discussed and made by Mr. Rizzo. Seconded by Mr. Comak. (Adopted unanimously 6-0.)

**CERTIFICATES OF COMPLIANCE**

**1. A request for a FULL Certificate of Compliance as made by Scott Clayman for DEP file 55-386. The project was the installation of in-ground swimming pool at a single-family residence. The address is known as 45 Benevento Circle, Map 11, Lot 164, Peabody MA.**

**Present:** Scott Clayman

**Motion** to issue a Full Certificate of Compliance with the following condition in perpetuity: In the event a swimming pool is placed on this lot, the following condition shall apply: The content of water in swimming pools can be detrimental to wetlands plant and animal species. To remove harmful chemicals, it is the applicant's responsibility to leave the pool water standing without the addition of chlorine for a minimum of seven (7) days before draining (per the City's Stormwater System Ordinance). In this way chlorine concentration will be significantly reduced due to volatilization. All pool water, wherever possible, shall be drained through a dry well, rather than allowed to spread over the surface of the land. The City of Peabody Conservation Commission office shall be notified prior to draining and shall approve the method of draining as made by Mr. Wojcik. Seconded by Mr. Comak. (Adopted unanimously 6-0.)

**2. A request for a FULL Certificate of Compliance as made by Attorney John R Keilty for DEP file 55-801. The project was the construction of a large commercial development with stormwater and utilities. The address is known as 47 Tremont Street, Maps 75-76, Lots 164, 164A-402, Peabody MA.**

**Present:** Attorney John R Keilty

**Summary:** Attorney Keilty respectfully requested that the request be withdrawn. There was a brief discussion regarding an Occupancy Certificate being issued for the existing sports complex. The commission stated they would consider allowing it without a Certificate of Compliance as long as the property was safe, and the building department signs off. Currently the property is a construction site, and the commission did not feel comfortable verbally approving anything until an appropriate site visit was conducted. **Discussion ensued.**

**Motion** to accept the withdrawal as made by Mr. Rizzo. Seconded by Mr. Wojcik. Adopted unanimously.

**3. A continued request for a FULL Certificate of Compliance as made by Attorney Mathew Snell on behalf of Stahl (USA), Inc. for DEP file 55-312. The project was the construction of a service building with associated appurtenances and land grading. The address is known as 13 Corwin Street, Map 92, Lot 6, Peabody MA.**

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Wojcik. (Adopted unanimously 6-0.)

**4. A continued request for a FULL Certificate of Compliance as made by Attorney Mathew Snell on behalf of Stahl (USA), Inc. for DEP file 55-323. The project was the construction of a commercial building with associated appurtenances, grading and mitigation efforts for the demolition of an existing building and it's appurtenances to accommodate commercial building. The address is known as 13 Corwin Street, Map 92, Lot 6, Peabody MA.**

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Wojcik. (Adopted unanimously 6-0.)

**5. A continued request for a FULL Certificate of Compliance as made by Frederick Hostrop (Neptune Engineering) on behalf 160 Main Street Realty LLC (Nikolay Polinovskiy) for DEP File No. 55-793. The project was the redevelopment of a previously degraded site for commercial and residential use. The address is known as 166 Main Street, Map 086, Lot 150B, Peabody MA. Partial CC has been issued. Item will remain on agenda until a Full CC can be requested. CONTINUED UNTIL May 2022 TBD- no motion needed**

Continued to May 2022 at previous hearing- No motion was necessary.

### **EXTENSION REQUESTS**

**6. Request for an Extension Permit on DEP File No. 55-847. The request is being made by Community Development on behalf of the city of Peabody. The project is aquatic maintenance and ecological restoration at Browns Pond. Per Tolling the Order expires on March 11.2023. This request is for administrative reasons.**

**Motion** to extend an ecological restoration permit DEP File No. 55-847 for 3 years plus any tolling allowed as made by Mr. Rizzo. Seconded by Mr. Wojcik. (Adopted unanimously 6-0.)

**7. Request for an Extension Permit on DEP File No. 55-863. The request is being made by Community Development on behalf of the city of Peabody. The project is aquatic maintenance and ecological restoration at Bartholomew Pond, Devils Dishfull, Elginwood Pond, Sydneys Pond and Crystal Lake. Per Tolling the Order expires on June, 11.2023. This request is for administrative reasons.**

**Motion** to extend an ecological restoration permit DEP File No. 55-863 for 3 years plus any tolling allowed as made by Mr. Rizzo. Seconded by Mr. Wojcik. (Adopted unanimously 6-0.)

**REQUEST FOR DETERMINATION OF APPLICABILITY**

**8. A continued Public Hearing on a Request for Determination of Applicability submitted by Anthony Capachietti (Hayes Engineering) for Mills58 II LLC c/o Edward Greeley (applicant/owner). The proposed work is the construction of a parking area and stormwater infiltration system for rooftop runoff within 100 feet of an isolated vegetated wetland under local jurisdiction. The property is known as 58 Pulaski Street, Map 53, Lot 87, Peabody MA.**

**Present:** Anthony Capachietti (Engineer-Hayes Engineering)

**Summary:** The engineer gave a brief update on the revised plan. Since the plan was submitted late city staff and the commission did not have adequate time to review the revisions.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Wojcik. (Adopted unanimously 6-0.)

**9. A continued Public Hearing on a Request for Determination of Applicability submitted by Greg Hochmuth (Williams & Sparages) for JDT Group LLC. The applicant is seeking confirmation of wetland boundaries, sensitive areas. This application is for verification of wetland boundaries confirmation only and not for the redevelopment of said lot. The property is known 0 Newbury Street, Map 088, Lot 007, Peabody MA.**

**Summary:** The applicant requested to withdraw the RDA. They will File a NOI in the future.

**Motion** to accept the withdrawal as made by Mr. Rizzo. Seconded by Mr. Wojcik. (Adopted Unanimously 6-0.)

**ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION**

**10. A Public Hearing on an Abbreviated Notice of Resource Area Delineation submitted by Thorsen Akerley (Williams & Sparages LLC) for Ray Falite (Falite Brothers, Inc.). The applicant is seeking confirmation for the extent and location of wetland resource areas that may be subject to jurisdiction under the Massachusetts Wetland Protection Act and the City of Peabody Wetlands Ordinance within and surrounding the property known as 60 Pulaski Street, Map 53, Lot 85, Peabody MA.**

**Present:** Chris Sparages (Williams & Sparages)

**Summary:** Snow is currently on the ground making it difficult to determine if the wetlands flagging is correct. Per the local ordinance the commission has the right to continue. The applicant agreed and respectfully requested a continuance.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Wojcik. (Adopted unanimously 6-0.)

**NOTICES OF INTENT**

**11. A Public Hearing on a Notice of Intent submitted by Sean O'Neill (applicant). The owner of record is OHC Walnut Place LLC. The proposed work is the construction of a duplex condominium within Bordering Land Subject to Flooding. The property is known as 10 Munroe Street, Map 85, Lot 2H, Peabody MA.**

**Present:** Chris Sparages (Williams & Sparages), John R Keilty (Legal counsel)

**Summary:** Staff requested a cut and fill chart because the property is in FEMA Flood Zone (BLSF). The applicant has not submitted it yet. Mr. Sparages gave an overview of the project. The building will be constructed on steel columns. The first floor will be at least one foot above the base flood elevation as required by the building code. Presently 90% of the property is covered in pavement.

MR. RIZZO: Through the chair I have a couple of questions. With regards to your compensatory flood storage. These are two separate NOIs. Although they are next door neighbors, they are two separate projects. In your report (stormwater report) you kind of talk about both of them in providing the compensatory flood storage based on the proper elevations and so forth. You kind of mention both properties in each of the other NOIs. I am wondering if they are dependent on each other. Can they stand independently if something should happen to one project and not the other can you still provide the necessary compensatory flood storage? We have two separate notices, but it looks like the engineering and the work to provide the proper compensatory storage makes it sound like they are dependent on each other.

MR SPARAGES: They absolutely depend on one another. Both properties are owned by the same entity today. Our client, Mr. O'Neill a long-time resident of Peabody, who does project like this from time to time in the city. He is going to be buying both properties and doing the project as one project. Most of the cities and towns that we work in, and I personally like to have two separate Orders of Conditions for each address. It makes it a little bit easier when it comes to the time of closing and things like that. All the site work is going to be done at the same time. All of that work associated with the compensatory flood storage is going to happen at the beginning of the project with the earthwork. That will happen before the filling takes place. We will be able to check those things obviously before we file for Certificate of Compliance request.

ATTY KEILTY: I am the attorney for the project and Chris, and I had a discussion this afternoon about providing either slope easements or actual easements for maintenance so that one lot can have rights to the other lot where their compensatory storage is. That would mean that 12 would gain a benefit of an easement over 10. At some time as they were separated.

MR RIZZO: I do not know if I am correct but although these will be built together with two separate filings, I would think that the Order of Conditions from our board should note that the two projects are dependent on each other. They should be built together otherwise the compensatory storage does not work.

ATTNY KEILTY: I feel that it is very appropriate. We could actually assist with that language at such time you are ready to issue an Order of Conditions.

**Discussion ensued** regarding the site flooding historically. According to FEMA Flood map the east side of the property theoretically could flood as high as 20.75 elevation. On the west side it is possible the water could rise to 22.25. City staff could not confirm if the property has flooded historically or recently. **Discussion ensued** regarding climate change and the potential of flood events not anticipated via the current flood maps. Other commission members felt an ocean storm surge would not affect this property. They have been keeping an eye on the property when it rains. The applicant claims the property has not flooded the last few months during heavy rains. Ms. DelNegro stated that the property known as 12 Munroe is within an open portion of river. That is the next item on the agenda, but the two files are somewhat related as discussed earlier. The plan and fees will need to be revised to reflect the riverfront area on the property. **The item was open to members of the public.**

**Councillor Stephanie Peach, Ward 3 City Councillor**

CLLR PEACH: I have a couple comments. I met with one of the abutters who also spoke with her neighbors. In regard to 10 Munroe, I wanted to ask some questions to the applicant. There are currently trees that exist along the northern side of the property that but 8 and 6 Munroe. There is also a chain-link fence that is currently there. I walked the property with the abutters this week. The chain-link fence is kind of in disrepair and has barbed wire. I wanted to know the applicant's plans. I assume with the compensatory flood storage going along that border those trees would be removed and the fence would be replaced.

**Discussion ensued.** The trees and shrubs will be removed to provide compensatory flood storage. Six (6) new trees will be planted along the street line not the property line. The current trees are a nuisance to the abutters. The fence will be replaced or repaired.

CLLR PEACH: Mr. Chairman yes that is the is the sentiment that I received from the abutters as well. The trees are more of a nuisance and cost a lot of money to maintain. They are very high, old and invasive than providing for the environment. Those were the questions that I had on behalf of the residents. It is my assumption that the compensatory storage that you are adding it be made that there is no pooling of water. They would like to see that the drainage continues. From what I hear there are no flood issues in this area currently. There has not been since the condos were put in on Walnut Street. I think this project replacing a completely paved zone and putting a lot of vegetation is an improvement for the neighborhood. Thank you for the opportunity to speak.

**Holly- 8 Walnut Place**

HOLLY: Currently that back lot is pretty much an eyesore. People are dumping on it (furniture etc.). One of the biggest concerns that I have is that there are people doing drug deals back there. You will see it in the middle of the night. They pull up in their cars, they do something and leave. That has been an ongoing concern for those of us living in this area. Being a resident, I think this will be great project to improve the community overall. Having some vegetation will make the area look a lot nicer. The project is very welcomed by our community.

**Summary:** The chairman reminded the applicant's engineer that the commission requires a cut and fill chart for the two filings on Munroe. The city engineer cannot review the files until it is received.

**Motion** to continue as made by Mr. Rizzo. Seconded by Ms. Cavicchio. Adopted unanimously 5-0 with Mr. Wojcik leaving meeting at 8:30 and not voting).

**12. A Public Hearing on a Notice of Intent submitted by Sean O'Neill (applicant). The owner of record is OHC Walnut Place LLC. The proposed work is the construction of a duplex condominium within Bordering Land Subject to Flooding. The property is known as 12 Munroe Street, Map 85, Lot 2L, Peabody MA.**

**Present:** Chris Sparages (Williams & Sparages), John R Keilty (Legal counsel)

**Summary:** The chairman reminded the applicant's engineer that the commission requires a cut and fill chart for the two filings on Munroe. The city engineer cannot review the files until it is received. There were no further questions from the commission or the public since most of the work was discussed during the last item. Mr. Sparages did mention the potential riverfront that was mentioned during the last item. **Discussion ensued.**

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Comak. (Motion passed 4-1 with Mr. Vivaldi not voting and Mr. Wojcik leaving the meeting early).

**13. A continued Public Hearing on a Notice of Intent submitted by Fred King (DGT Associates) for Mayor Edward Bettencourt. The proposed work is the rehabilitation of the existing school building with minor site improvements including pedestrian walkway repaving, playground repaving, accessibility improvements, minor utility work, stormwater management and landscaping. The property is known as 50 Swampscott Avenue, Map 104, Lot 049, Peabody MA.**

**Present:** Vivian Low (DiNisco Design, Inc.), Kevin Riopelle (DGT Associates)

MS LOW: We were here last month presenting the Welch Elementary School Project. It is a renovation project with a very small addition. At the last meeting we did not have the comments back from the engineering department. I believe we have that now. Kevin has submitted that back to Lucia. I believe the commission now has a set. We have updated the drawings accordingly and have responded to all of Mr. Langley's comments.

MR RIOPELLE: Like Vivian said we received Mr. Langley's review memo there were eight items in the review memo. Most of which were just ensuring that DPS would be on the site during utility installation and excavation and what not. We took no exception to any items he raised. We updated the plans accordingly and resubmitted everything along with a response letter noting our responses to each of the items.

**Discussion ensued.** There were no members of the public that wished to comment.

**Motion** to close as made by Mr. Rizzo. Seconded by Mr. Comak. (Adopted unanimously 5-0 with Mr. Wojcik not present.)

**Motion** to issue a standard Order of Conditions 1-50 adding the following special conditions: **51)** The new LTPPP and O&M and existing LTPPP/O&M are in perpetuity. Maintenance reports to be submitted annually on 10.31 once system is online; **51)** Stockpiling Conditions: per sheet 1.3.05: 6.1-stockpiles of soil material shall be placed within areas that are protected per perimeter erosion controls as shown on this plan or shall be surrounded by proper silt fencing, fiber logs or staked compost logs. 6.2-stockpiles that are to be in place for extended periods of time (more than 30 days) shall be covered or otherwise temporarily stabilized in accordance with Best Management Practices (BMPs); **52)** Notify the Conservation Commission in writing 48 hours prior to construction start-up that erosion controls are in place and ready for inspection. (The erosion controls shall be placed prior to any construction on-site. Said erosion controls shall be maintained and replaced as needed until a Certificate of Compliance is issued.); **53)** Applicant/Owner shall take precautions necessary to mitigate any damage to the porous pavement parking lot that is directly adjacent to the worksite. The applicant/owner must restore pavement surface as appropriate if damaged during construction; **54)** The applicant MUST supply a full set of AS BUILT drawings to the engineering department of DPS upon completion of the improvements and before application of Certificate of Compliance; **55)** Bed bottom inspection needs to be conducted on the infiltration facilities that will be installed (prior to the stone being installed) by the applicant's design engineer and licensed soil evaluator. This inspection MUST be witnessed by the Engineering/DPS dpt.; **55)** Erosion controls must be installed along Strongwater Brook as made by Mr. Rizzo. Seconded by Mr. Vivaldi. (Adopted unanimously 5-0 with Mr. Wojcik not present.)

**14. A continued Public Hearing on a Notice of Intent submitted by Ann Marton (LEC Environmental Consultants, Inc.) for R.J. Kelly Management LLC. The owner is Analogic Corporation (Andrew Prete). The proposed work is the redevelopment of the property as a storage warehouse facility including razing and removing all existing buildings and infrastructure and constructing a new state-of-the-art storage warehouse building with**

**internal circulation, parking, loading facility, supporting infrastructure. The property is known as 8 Centennial Drive, Map 91, Lot 6, Peabody MA.**

**Present:** Scott Cameron, (Morin Cameron Group), Attorney John R Keilty (legal counsel), Shawn Smith (RJ Kelly), Suz King (BL Companies)

**Summary:** The project is currently in the peer review process. They received their MEPA Certificate, and it did not require further EIR review. Additional soil testing was done since the last hearing. **Soil discussion ensued.** The commission asked for the O&M Long Term Plan and O&M Budget as well as a snow storage plan. There was further discussion regarding Dark Sky plans for lighting. No members of the public were present to speak for or against the project. At this time the commission felt they could not vote.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Vivaldi. (Adopted unanimously 5-0).

**15. A continued Public Hearing on a Notice of Intent submitted by William Manuell (Wetlands & Land Management, Inc.) for Regency Realty Trust-Alfred Dimambro (Trustee). The proposed project is the construction of two buildings and site improvements paving, utilities etc. in riverfront to the North River. The property is known as 11-13 Wallis Street, Map 85, Lot 41A, Peabody MA ITEM CONTINUED UNTIL THE MARCH 9, 2022 HEARING**

Item continued to March hearing at a previous hearing. No motion was necessary.

#### **ENFORCEMENT ORDER/VIOLATION ORDERS**

**16. Violation Order issued to Mario Chaves Lopez for the alleged violation: altering buffer zone/local riverfront groundwork without a permit from the Conservation Commission or MASSDEP. The address is known as 156 Goodale Street, Peabody MA.**

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Comak. (Adopted unanimously 5-0).

**17. A continued discussion on a Violation Order issued to M&R Trucking and Paving for the alleged violation: Washing fleet trucks with soap in riverfront and draining the water contents directly into the river with no treatment or permission from the local commission or stormwater committee. The address is known as 119 R. Foster St., Peabody MA.**

**Summary:** The property owner has retained an environmental consultant. They plan to file an RDA to be heard at the April hearing. The VO will stay on the agenda until said filing is complete.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Vivaldi. (Adopted unanimously 5-0).

**18. A continued Enforcement Order issued to Pedro Polini for work located at 60 Warren Street Extension. The property owner has done various projects in riverfront without a permit from the commission. The most egregious issue is the failing retaining wall, and the stormwater drainage pipes into Proctor Brook.**

**Discussion ensued** regarding the legal property owner of said land. The commission asked staff to reach out to PMLP to start the discussion offline.

**Motion** to continue until the **April** hearing as made by Mr. Rizzo. Seconded by Mr. Vivaldi. (Adopted unanimously 5-0).

**OTHER AND DISCUSSION ITEMS**

- **MINUTES- December 8, 2021, remotely held**

**Motion** to accept as made by Mr. Rizzo. Seconded by Mr. Comak. (Accepted unanimously 5-0).

- **Country Club- Violation Order**

There will be a special hearing on a Violation Order issued to the Salem Country Club on March 23 to be held via zoom platform. TBD

- **Adjournment**

**Motion** to adjourn as made by Mr. Vivaldi. Seconded by Ms. Cavicchio. Adopted unanimously.  
**The meeting adjourned at 10:09 PM**

**Respectfully submitted, (To be signed electronically)**

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**Chairman Stewart Lazares**