



## City of Peabody Conservation Commission

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

### MINUTES

**JANUARY 15, 2020**  
**DEPARTMENT OF PUBLIC SERVICES**  
**50 FARM AVENUE**

#### **MEMBERS PRESENT**

Chairman Michael Rizzo  
Vice Chairman Bruce Comak  
Secretary Stewart Lazares  
Melissa Feld-Cantin  
Michael Vivaldi (alt.)  
James DiGiulio (alt.)

#### **MEMBERS ABSENT**

Bryan Howcroft  
Travis Wojcik

**Also Present:** Honorable City Councillor Mark J. O'Neill Ward 6; Lucia DelNegro, Conservation Agent

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:10 pm

**PROPOSED NEXT MEETING DATES-** February 19, 2020 DPS- 50 Farm Avenue  
March 11, 2020 Peabody City Hall -LLCR

Both Alternate Commissioners were given voting rights in the absence of two commissioners.

**NOTICE OF INTENT**

**1. A continued Public Hearing on a Notice of Intent submitted by Emmanuel Papanickolas. This is an “after the fact” filing. The property owner is requesting the commission to allow existing filled pad to remain in buffer zone. No stormwater components are proposed at this time. The property is known as 25 Farm Avenue, Map 69, Lot 6, Peabody MA. (DEP File No. 55-860).**

**Summary:** Mr. Lazares was concerned that untreated water was still sheet flowing off the site and into wetlands. Mr. Mello was present and was unaware that the applicant/owner has requested a withdrawal of the NOI. Ms. DelNegro stated that she was forwarded an email from Attorney Harding that she then forwarded to the commission. It was her understanding given the nature of the discussion that the applicant and their representatives were not expected to show up. The letter clearly stated, “Our understanding is that there is no need to appear at the meeting scheduled for January 15, 2020.” Conservation staff did not hear from any members of the commission and assumed the owner and their attorney’s presence was not necessary. Mr. Lazares agreed to accept the withdrawal but would like to have a future discussion regarding the property and its compliance with the WPA and local wetlands ordinance. Ms. DelNegro told the commission that succession at the site has already progressed significantly from the summer. They will need to file an RDA before a new tenant can occupy the property. Any future work will require a new NOI.

Motion to accept withdrawal of the NOI via a letter from Attorney Harding as made by Mr. Vivaldi. Adopted unanimously.

**2. A continued Public Hearing on a Notice of Intent submitted for Alliance Health of Massachusetts by Attorney John R Keilty. The proposed work is the removal, reconstruction and expansion of an existing parking lot and stormwater management facility. The property is known as 22 Johnson Street, Map 34, Lot 22, Peabody MA.**

**Present:** Attorney John R. Keilty, Christopher Mello (ELSAI) and David Dunlap (owner representative)

**Summary:** The item has been under review by the commission and DPS engineering staff for months. Test pits have been done and reviewed. After careful review the commission felt the plans were adequate to be accepted. There were no members of the public that wished to comment. Staff mentioned a residential house near the proposed parking area. The resident was not present. The commission has no jurisdiction over lighting and other issues that would affect the abutter. This may be discussed further at Construction Review or other boards that it may be more appropriate for this type of deliberation.

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

Motion to issue a standard Order of conditions 1-50 adding the following conditions **51)** An As-Built Plan is required when filing for a Partial or full Certificate of Compliance. The request for the Certificate of Compliance and the As-Built Plan SHALL be copied to City Engineering for them to review and sign off BEFORE the commission will act on the request; **52)** Straw wattles/bales/logs shall be used in lieu of haybales; **53)** All maintenance logs/reports shall be submitted to staff annually on 10.31 (October 31<sup>st</sup>) once the treatment train is online and functioning; **54)** Per note 6

on sheet 3, if the retaining walls intrude any closer to the basin than currently shown on the above-mentioned plan the applicant will be required to file an amendment request with the ConComm; **55)** Per note 9 on sheet 3, the detention basin is constructed a bed bottom inspection shall be conducted by the applicant's Massachusetts licensed soil evaluator and witnessed by the city engineer; **56)** Per note 10 on sheet 3, all new pavement runoff shall be directed to the new stormwater system; **57)** Per note 7 on sheet 3, the applicant will need to apply for a building permit prior to starting any grading or site work as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

### **AMENDMENT REQUEST**

**3. A continued Public hearing on an Amendment Request for an Existing Order of Conditions DEP File. No 55-857 submitted by Joseph Salvaggio. The proposed work is the construction of a single-family house with driveway, utilities and lawn. The new property owner wishes to increase the footprint of the structure. The property is known as 73 Lake Street, Map 45, Lot 62, Peabody MA.**

**Present:** Joseph Salvaggio (owner) and Christopher R. Mello (ELSAI)

MR MELLO: I represent Mr. Salvaggio to alter amend or modify the Order of Conditions that he received to build a single-family dwelling on a lot at 73 Lake Street. We were here previously to discuss that. We left with direction from the commission that we should come back and do what we can to minimize impervious surfaces. To provide some stormwater management that had not been provided in the initial filing because it was a single-family house. We have done soil testing in a variety of areas. We filed a new plan with the commission with a stormwater management program. It will take the impervious areas, the paved areas and the roof areas in three separate entities of the Cultec chambers (front, side and rear of the house). Those three structures would take the stormwater through roof drains and catch basins. It would allow it to get into the soils and percolate. Also, at the request of the commission. We have looked at the wetland resource area. The buffer zone to the resource area. Which is indicated in yellow in this case.

**Discussion ensued** regarding other features that have been revised on the plan (two hundred riverfront area, strawbales etc.) Mr. Mello kept calling the resource across the street a ditch with only local jurisdiction. Conservation staff reminded the consultant that DEP already confirmed it is a river and riverfront does fall on this site. There is also a locally jurisdictional ditch located across the street. The amendment request was to modify the existing Order to allow a larger house with a garage and other changes on a single-family lot.

MR RIZZO: We have a memo I received today from Will Paulitz (city engineer).

MR MELLO: I did see that today. I will only say that I am sure that everything Mr. Paulitz has written in there is based on fact and regulations. When we came before this commission, we acknowledged that we can not meet many or any of the variety regulations that might exist for stormwater management. We wanted to come in here with a larger house. It is what we wanted, and we did the best we could to provide stormwater management through infiltration and not through open ponding and this is what we have done. I did see that (memo from DPS). I don't believe anything he said is incorrect. If we got the letter two weeks ago, I don't think it would have changed the answer.

**Discussion ensued.** Mr. Mello stated he cannot and will not meet the request from the city engineer and his memo dated January 15, 2020.

MR MELLO: I am not going to play lawyer or anything else. Not only can we not meet them. I am not sure that we need to because we have this house. I am not sure that we don't either. I will leave it at that. We have done the absolute best we can to provide stormwater management for the increase and larger footprint.

MR RIZZO: Visually you can demonstrate but can you talk about the structures you are putting in there and how they are going to collect and infiltrate stormwater runoff? How does this design work to the greatest extent practicable to meeting performance standards?

MR MELLO: We have a reasonable separation between the proposed infiltrators and the groundwater. We have two (2) feet. We do not have four (4) feet. We don't expect to do groundwater modeling because of it. It will show whatever it shows. It won't change anything. Nothing that is asked for will change anything we can do. If we were to try and do compliance, we would have to fill the site.

**Discussion ensued.** The revised plan shows new plantings in the buffer zone.

MR VIVALDI: I would like to ask Mr. Mello at this meeting or the next meeting to give us some idea which conditions he can meet and which ones he can not meet. That way the commission has a better idea. There are some simple things on this memo that I think you could address. As a blank slate you just say, "we can't meet them." I think you are referring to just the stormwater.

MR MELLO: I am referring to the stormwater and the design. Things like can you have an O&M, or can you do this? Certainly, we are willing to work with the commission and DPS. In general, and in all honesty this morning I came to work and saw that. Another memo the day of the meeting. Which I don't really care.

MR RIZZO: The inner and outer riparian zones were not on the plan.

MR MELLO: Yeah but that is just a line.

**Discussion ensued.** Mr. Mello stated he would go through the DPS memo line by line. He will do his best to accommodate and make changes to said plan if possible. The commission asked for a line by line response for review at the next hearing. All simple plan changes will be made on a revised plan. He stated again some items he will not be able to get in compliance. The commission does not want the site raised. Mr. Mello believes that would be the only way to get the four-foot separation. Chairman Rizzo asked if the project will meet the 44% TSS removal. Mr. Mello stated he was not at that number but would look through the report and get back to the commission. **Discussion ensued.**

MR RIZZO: I think the key here for a project of this type is to inform us and tell us how you can meet these standards to the greatest extent practicable. Please look at the memo.

MR MELLO: We will incorporate the memo into our report, and we will have a separate memo addressing the report. We would like to request a continuance.

**The item was open to members of the public for discussion.**

**Walter Youraski, 5 Mead Street**

MR YOURASKI: I am one of the abutters. Our only concern is the direction of the water. I know there is no guarantee that we are not going to get water. There was hydrostatic pressure that pushed up on my floor years ago. I have cracks in my tiles. Are we going to have any change in direction of the water? He did a great job with the plan and showing how it is running off the roof. We just don't want to get any water as abutters. I know there is no guarantee.

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MR RIZZO: The site is flat. They are recharging back into the ground. With a decent amount of separation between the bottom of the beds and average height of groundwater.

**Summary:** Neighbors were concerned with future flooding in the neighborhood. Chairman Rizzo reviewed the soil report. He stated the soils looked permeable.

**Paul Delvecchio, 3 Mead Street**

MR DELVECCHIO: Back in 1994 when the last proposal for this lot was in front of the Conservation Commission. Do you folks ever go back and look at other rulings?

MS DELNEGRO: Yes, the file is right here. Of course, I do. (The file was on the table at the meeting.)

MR DELVECCHIO: But does the board use it for their decision making?

MS DELNEGRO: The board can certainly look at if they want to. This was what was approved.

**Summary:** Ms. DeINegro opened the old approved plan and placed it on the table for the occupants of the room to review if they so wished. **Discussion ensued.**

MR RIZZO: Would we like a smaller house? Yes, but he has asked for a larger home. He has provided items to handle the stormwater.

MR DELVECCHIO: As a resident of Peabody I have the utmost confidence in this board here.

**Discussion ensued.**

**Kerry Youraski, 5 Mead Street**

MS YOURASKI: The water is going to go into the ground? How is that going to affect the houses behind where they are going into the ground? Where is that water going to go? Is it going into the pond?

MR RIZZO: There is good gravel there. It will permeate through, recharge and work with the pond.

MS YOURASKI: So, we are not going to get flooded?

**Summary:** The commission stated they could not answer the question of whether other houses will flood because of this development.

MS YOURASKI: That is my question. I have a finished basement. It has a kitchen, a living room the whole bit. You are telling me that you don't know. Is there a Proof of Concept for another home near a pond where the water is going into the ground and the abutting homes are not being flooded?

The commission asked the engineer to speak regarding the stormwater components.

MR MELLO: We have taken the proposed impervious area of the structure and the driveway. We have provided stormwater management through a particular program of pipes, plastic chambers and stone. To allow that water rather than to runoff on the surface towards the abutting houses, towards the street or towards the railroad to infiltrate into the ground. That groundwater will seek its own level. I can't tell you what it will do to your house. It will not do anything to the groundwater here other than to allow that water to recharge. I don't have the answer for you. it is a question I have had over my entire career.

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MS YOURASKI: That is my biggest concern. At the end of the day I don't have flood insurance. This is not a flood zone. I do not have flood insurance. I am not covered if anything happens to my property. No insurance company will let us purchase it. So, my question is again "what is the Proof of Concept?"

MR MELLO: I am sorry, but I can't provide you with a Proof of Concept. That is something beyond engineering.

MS YOURASKI: So, if this happens and we get flooded you are telling me we are on our own? The water is going back into the ground. Then into the pond. When the pond gets overflowed it comes back this way. Which is where we all live. There is a risk.

**Discussion ensued.**

MR VIVALDI: The stamp on this plan is verifying that all the calculations are correct. He is the one verifying that this information is correct. The stamp on this plan from Mr. Morin is the engineer and the proof concept and all the calculations will work. So, the adjacent properties shouldn't flood.

MS DELNEGRO: Through the chair. I think what she is touching on is number sixteen (16). The four feet groundwater separation between the infiltration beds. That might be a problem if they are not meeting that. I think that this memo at least needs to be addressed. That way we can have a better idea. If her house floods she is not going to sue Clayton Morin, is she? Or can she? I don't know. Or can she sue the commission? I am not an attorney.

MR RIZZO: I think raising the property will be more detrimental to the abutters.

**Discussion ensued.** More neighbors spoke and were mainly concerned with future flooding on their properties. They felt that the house was too large for the lot and he neighborhood. Mr. Mello was asked to go through the memo from William Paulitz and explain what can and can not be met and why. He agreed.

Motion to continue as made by Mr. Lazares. Seconded by Mrs. Feld-Cantin. Adopted unanimously.

**CERTIFICATE OF COMPLIANCE**

**4. A request for a Certificate of Compliance made by Attorney Kerry Cucinatti for Peter Demoulias on DEP file No. 55-154 specifically releasing 20 John Road only. The property is part of a subdivision entitled Oak Hill Estates II from 1987. Map 107, Lot 183, Peabody MA.**

Motion to issue a Partial Certificate of Compliance releasing 20 John Road only as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

**5. A request for a Certificate of Compliance made by Nicholas Scangas for Scangas Brothers Realty on DEP file No. 55-740. The project was a Release Abatement Measure Plan (remediation of a historical fuel oil release. Remediation included excavation of contaminated soils and injection of proprietary chemical oxidation solution. The property is known as 10 Sylvan Street, Map 39, Lot 27B, Peabody MA.**

**Present:** Frank Postma (EA Engineering, Science & Technology Inc.)

Motion to issue a Full Certificate of Compliance on DEP file No. 55-740 as made by Mr. Lazares. Seconded by Mr. Comak. Adopted unanimously.

**6. A request for a Certificate of Compliance made by Nicholas Scangas for Scangas Brothers Realty on DEP file No. 55-748. The project was the installation of two refuse enclosures of six-foot chain-link fence and installation of fence along the edge of the river. The property is known as 10 Sylvan Street, Map 39, Lot 27B, Peabody MA.**

**Present:** Frank Postma (EA Engineering, Science & Technology Inc.)

Motion to issue a Full Certificate of Compliance on DEP file No. 55-748 as made by Mr. Lazares. Seconded by Mrs. Feld-Cantin. Adopted unanimously.

### **NOTICE OF INTENT CONTINUED**

**7. A Public Hearing on a Notice of Intent submitted for Peabody Department of Public Services (Robert Labossiere) by Weston & Sampson. The proposed work is the rehabilitation of the Winona Water Treatment Plant. The work includes a 1,000 SF building addition for improved treatment capabilities, improvements to the entrance gate and truck access road, replacement of buried water pipes, a new sewer pump station and force main (replaces existing onsite treatment) and cleaning of the process residuals lagoons. The property is known as Butternut Avenue, Map 56, Lot 99, and Map 55, Lot 43, Peabody MA.**

**Present:** Justin Gould (Weston & Sampson), Alexandra Gaspar (Weston & Sampson) as representatives for the Department of Public Works

**Summary:** Mr. Gould started with an overview of the project. There are two treatment plants that service the city. Winona Pond Treatment Plant was built in 1971. For the most part it is the original facility that was constructed 49 years ago. It is well overdue for a rehabilitation of the building and the treatment process itself. There are algae issues and there is a need for an upgrade to the facility.

MR GOULD: Some of the treatment process itself. Some of the documentation that was submitted it was noted that there are some algae issues that are happening. The residents I am sure are probably aware of that. Some of the treatment processes are getting upgraded to more state-of-the-art technology. In part to handle and remove that algae if another bloom occurs. Also improve iron manganese which is the primary contaminants that are in this particular water source. Process wise what is there now is just a simple flocculation sedimentation process.

**Discussion ensued.** The flocculation system is getting upgraded to a Diffused Aeration Flotation Process (DAFP). Various pumps will also be upgraded and replaced. The leaching field will be abandoned. A small sewer pump station will replace it. It will handle the sanitary waste and other things that currently go the leaching field and other process waste. **Discussion ensued.** The lagoons will be excavated. The sludge will be dewatered on site and brought to the city's landfill for disposal. Then the lagoons will be refurbished and brought back online. **Discussion ensued.** The lagoons will have asphalt liners. There is a temporary disturbance to the resource for the installation of a one-inch pipe. There is also a new approximately 1,000 SF addition to the building. The access road will be slightly widened a few feet to accommodate the trucks. Per the stormwater calculations the runoff will be reduced. The proposed work is in response to a DEP Consent Order. The item was open to the public for discussion.

### **Henry and Alyssa Lucas, Beeman Road**

HENRY LUCAS: We are on the other side of the railroad track. This is our backyard. I want to get some clarification. We have lived there roughly fourteen years now. We have had different issues

and we have worked with Lucia before. Is anything going to be coming towards our property? The reason why I ask is because from time to time there is a lot of activity that happens. For instance, last spring they had hoses coming from a retaining pond or something. They pumped it up over the railroad tracks and into our backyard. There are instances like this that pop up. I want to make sure we are very clear about what is going to happen.

**Discussion ensued.**

Motion to close the public hearing as made by Mr. Comak. Seconded by Mrs. Feld-Cantin. Adopted unanimously.

Motion to issue a standard Order of Conditions 1-49 adding condition 50) Staging area for refueling must be shown on the plan BEFORE work can commence. It shall be submitted to the commission for review also adding checklist H (1-3)-Large Commercial Projects-Fueling Equipment Storage as made by Mr. Comak. Seconded by Mrs. Feld-Cantin. Adopted unanimously.

**ENFORCEMENT ORDER**

**8. Continued Enforcement Order 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.**

Site visit was scheduled for January 23, 2020 at 4:40 pm.

Motion to continue as made by Mrs. Feld-Cantin. Seconded by Mr. Lazares. Adopted unanimously.

**DISCUSSION ITEM**

**9. Possible discussion on DEP file No. 55-869 and 55-872 (0 Warren Street, 3 Berry Street and 0, 15 & 18 Crowninshield St, Peabody MA)**

**Present:** Sara Ebough (VHB), Lauren Gluck (Pare Corporation) and Clarence Hutto (Pare corporation)

**Summary:** There was some minor changes that the commission approved without an amendment. The changes were minor and not near any open water. Per DEP's Amendment Policy the changes were not significant enough to trigger an amendment request. The changes must be shown on the As Built Plan when filing for a Certificate of Compliance request under file number 55-869. There was a further discussion about culvert repairs that are significant. The commission requested that they file a proper NOI for this work. The consultant agreed and will file a new NOI for the culvert repair work.

Motion to accept the minor changes as made by Ms. Feld-Cantin. Seconded by Mr. Lazares. Adopted unanimously.

**VIOLATION ORDER**

**10. Shirat Hayam- Wetland Mitigation Report –Beth El Cemetery Lowell Street- violation is the dumping of soil and other earth refuse in buffer zone.**

**CONTINUED UNTIL MAY 2020**

**APPROVAL OF MINUTES**

**11. MINUTES- October 16, 2019, November 13, 2019 AND December 11, 2019**

Motion to accept as made by Mr. Lazares. Seconded by Mr. DiGiulio. Adopted unanimously.

**SUBCOMMITTEE REPORTS**

- **Land Acquisition Committee- Chairman Rizzo            NONE**

**OTHER**

- **Any other matter presented to the commission at this time.**
- **Adjournment**

Motion to adjourn as made by Mrs. Feld-Cantin. Seconded by Mr. DiGiulio. Adopted unanimously.

The meeting adjourned at 10:15 PM

**Respectfully submitted-**

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**Chairman Michael Rizzo**