



City of Peabody
Conservation Commission

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

MINUTES

FEBRUARY 20, 2019
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Melissa Feld, Secretary
Bryan Howcroft
Craig Welton (left at 10:35pm)
Travis Wojcik
Stewart Lazares

MEMBERS ABSENT

none

Also Present: Lucia DelNegro, Conservation Agent; Brendan Callahan, Assistant Director of Planning; Ward 5 City Councillor Joel Saslaw

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

PROPOSED NEXT MEETING DATES- March 13, 2019 AND April 10, 2019
DPS- 50 Farm Avenue

****Please note meeting location has changed- The Commission will meet at the Department of Public Services located at 50 Farm Avenue, Peabody MA until further notice.**

Items one and two were loosely discussed together

VIOLATION ORDER

1. A continued Violation Order issued to Emmanuel Papanickolas for DEP File No. 55-822. The property location is 25 Farm Avenue. The alleged violation is adding fill and an crushed aggregate pad in the location of a proposed stormwater basin as approved by the commission under DEP file no. 55-822.

Present: Attorney Harding, John Karamas (contractor), Crystal Papanickolas and other members of the family. (Chris Mello from ELSAI was not present)

ATTY HARDING: At the last meeting we did not have the current status of the construction project of the stormwater basin that ties into the retention pond. We found immediately after the meeting that work has been about fifty percent completed. Since that time Mr. Karamas has completed substantially all of the work. My understanding is that there is probably two to three days of work left. And he was to meet Mr. Callahan at the site to review the status of the project. Mr. Karamas is here and is ready to address the commission. With both a summary of the project and what's been done. He can respond to any questions or concerns that the commission may have. At that point we will be asking the commission to approve a certificate of compliance that would extinguish this notice of violation.

MR KARAMAS: The detention pond itself is all completed. The trash grate that will go in front of the manhole is missing. The wall is all up around the place they are going to store the containers. I have to regrade it, but it is frozen. I am expecting two or three days of warm weather coming. No water is leaking out into the resource area right now. It is all directed into the catch basin. The system is functional right now. The system is working. Other than that, the only thing missing is a chain link fence that has to go up around it. The fence will be done by the person that is leasing the place. Other than that, it is complete.

MR CALLAHAN: I met John at the site this afternoon. Everything is installed. As he said the trash grate needs to be installed. Everything else seems to be in compliance. I would recommend to the property owner as soon as the work is complete to submit a request for a Certificate of Compliance and be on the March agenda for that.

Discussion ensued. The commission asked if the project had an O&M Plan for future maintenance. No one seemed to know the answer. If there is currently not an existing O&M Plan the commission suggested one be submitted for approval with the Certificate of Compliance request. Attorney Harding stated there was an O&M Plan submitted with the original NOI that was approved previously by the ConComm. No members of public wished to speak. The chairman asked they keep staff up to date on the work progress.

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Howcroft. Adopted unanimously.

NOTICE OF INTENT

2. 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).

Present: Attorney Harding, John Karamas (contractor), Crystal Papanickolas and other members of the family.

Discussion ensued. JD Raymond confirmed that leaf litter is blocking the culvert. The camera helped remove some of the debris lodged in the pipe. It has not been cleaned out yet, but it should be an easy fix according to Mr. Callahan. JD Raymond, per Brendan's understanding, does not believe it is his responsibility to clean the culvert. The onus should fall on the property owner. JD Raymond was not present at the hearing. At the last hearing his consultant, Ann Marton, requested the commission refrain from discussing this matter without them being present. The commission was in a conundrum as the property owner stated at the January hearing that he will not clear the culvert of obstructions. The report states that the culvert was in good conditions but clogged. The commission stated someone needs to clear the culvert of obstructions. Abutters to the land believe that the blocked culvert could be the reason their property has had ponding water over the last few months. The commission asked for the culvert to appear on a revised plan drafted by Eastern Land Survey Associates.

ATTY HARDING: Mr. Papanickolas was not able to attend tonight. We would like to confer with him. We could report back tomorrow or within the next day or so to Mr. Callahan as to whether that is agreeable. I don't want to commit him to a position when he is not physically here.

MR WOJCIK: Through the chair. This has been going on many months. I don't feel comfortable voting and I don't think any other members feel comfortable voting on anything to do with the NOI until the culvert is clean and the special permit is filed with city council. If that is not done by May I would like to get this off the agenda. It doesn't seem like it can be done in a timely manner.

ATTY HARDING: We are not seeking special permit. That is John Raymond and he is not under our control. We have no control over when Mr. Raymond will seek his special permit.

Discussion ensued regarding special permit.

ATTY HARDING: I am having a hard time seeing exactly what the connection between the culvert questions and our NOI. Our NOI is a very simple NOI to permit the aggregate pad and stone that is already there and has been there for some time to remain in place. I am not seeing from a technical perspective what the culvert connection is, and we certainly don't agree that it is appropriate to hold up our NOI based on what the tenant has decided they need to do on a special permit.

MR WOJCIK: Through the chair. The connection is that our wetlands ordinance allows us to look at the property as a complete property. There is an outstanding issue with the culvert. I am not voting on it until the outstanding issue on the property is addressed.

Discussion ensued. Commissioner Lazares thinks that there should be an O&M Plan specifically for the culvert in question.

MR LAZARES: You have to maintain the culvert so that the wetlands are free to operate the way they are designed. Right now, I am hearing that your NOI is only looking for some gravel fill. Well we are looking for some help because the plumbing stinks. I would like to have that added to your responsibilities. I would like a maintenance plan for the property.

ATTY HARDING: So, step one is asking it to be cleaned of leaves and debris. Second, put it on the map. Third to have something amend the Operations and Maintenance Plan that we already submitted but to the extent that if it doesn't deal with the culvert it should deal with the culvert.

MR LAZARES: Correct. Then we will have this all resolved. I would like to see this all by the next meeting.

Discussion ensued. Attorney Harding agreed to the timeline requested. Attorney Harding stated that was the end of his testimony for the evening. The item was open to members of the public for comment.

Attorney Jason Panos, legal counsel for abutter Mike Weiss

ATTY PANOS: I submitted an extensive letter of seven pages dated January 24, 2019. Which I believe you received so I will not go into the specifics. However, there are outstanding issues to discuss in addition to the culvert. We do believe that the culvert is directly related to the NOI for the reasons expressed. We also understand and recall that there are other issues that the board requested at the hearing. They were of a technical nature. I have with me Peter Ogren from Hayes Engineering and he can speak to that directly.

MR. OGREN: At the last meeting we felt that there were a couple of items missing from the NOI. Specifically, a Stormwater Management Report. They did file an O&M Plan. Without a Stormwater report there are no hydraulic calculations. They talked about the surface being crushed stone. Then they said they were going to use it for farming purposes after that. All commercial projects must have a stormwater checklist.

Discussion ensued regarding the stormwater checklist that was never submitted by the applicant's engineering firm.

ATTY HARDING: First of all, we don't agree that all these calculations; the stormwater regulations are very vague to what is required. He keeps citing in his letter that it refers to all commercial and industrial activities. It has to be taken into context of what this site is. There is no building on it. We are not talking about putting up a tower on this property. To suggest that we need all these calculations that we have no memory that the commission required that at the last meeting. The minutes to that meeting to my knowledge, unless they happened this evening, have not been posted. We don't agree that that is a technical requirement of either the state or the city ordinance. Mr. Mello's letter fully addresses and in fact demonstrates that the swales and the other devices that are going to be put in place once this is approved are actually going to improve any issues with respect to stormwater runoff. We got the catch basin and the other devices in place to deal with it. Obviously, there is a lot of tension with this abutter. As far as we are concerned they are trying to hijack this process for their own benefit. At every turn inject new requirements that don't exist in any regulation as applied to this property for the purpose of holding this up. We don't agree that it is required. If it was we would have submitted it. We think what we submitted so far fully addresses any concerns that there might be with respect to stormwater and runoff issues.

MR OGREN: The regulations are specific on commercial projects. You have to submit a stormwater checklist. As I said you don't necessarily have to do everything on the checklist. You have to state how you relate to the checklist.

Discussion ensued. Chairman Rizzo agreed, and the commission requested a stormwater checklist. Attorney Panos reminded the commission that Mr. Weiss's property and his neighbor Mr. Manos (252 Forest Street) has also been flooded recently. Attorney Panos believes there is a direct correlation of the overly intensive uses of the Papanickolas property and the recent flooding on the abutting lots as mentioned.

ATTY PANOS: Where you observed, many members of this commission, on November 28 (2018) I believe when you did a site visit. You saw the degradation of the various maintenance and other stormwater management controls that we had implemented on the site. They are already showing signs of failure. We have put in excess of 400 to 500 thousand dollars into this property.

To suggest that we are somehow seeking a benefit. I would love to know Attorney Harding what that benefit is. I would love to know through the chair for you to explain on the record what kind of benefit we are seeking and what kind of benefit we could possibly get from seeing as a direct result that we have proven with scientific evidence, through proper engineering. What kind of benefit we seek, and we can possibly obtain when as a direct result of what your client is doing and their tenants. Through the over intensive use aggregately on the property. Which this NOI by the way is only adding to. What kind of benefit are we getting number one? Number two, how is it that the NOI is unrelated to the aggregate of the concerns we have addressed time and time again. We are beating a dead horse here. We are into this for four months. The application has been filed since July (2018). Refiled since September. Open hearing in October. While we appreciate the improvements that have been made, with regard to addressing the violations, to sit here and be insulted by suggesting that we are somehow seeking a benefit. Up until this point all we have see is confusion, obfuscation, inability (up until tonight) to get any clarity on any of these outstanding issues. Let alone a good faith willingness to come forward and seek to address the issues that have been raised. It is pretty frustrating. Again, the letter I wrote on January 24 and submitted to all of you speaks for itself.

MR RIZZO: I have to agree with that last statement. I understand that what is happening with this NOI and these plans should satisfy the use of *this* piece of 25 Farm Avenue subject to these engineering and construction features being done. I am sorry to say this, but I feel like you have blinders on. You are concentrating on this one piece and saying, "that has nothing to do with this". I am sorry, this is one property. This is a big property. And to take little pieces of your property and rent out little pieces and think that they are not part of the whole piece of property. I don't agree with that. If there is activity on 25 Farm Avenue that is happening that is potentially creating impacts to other properties. Although his may work fine. It is still one big piece of property. To sit here and not want to address what else is happening on 25 Farm Avenue. I have a problem with that.

ATTY HARDING: We are fine addressing it. We do not agree that we are impacting their property. We think Ms. Marton's investigation in fact is going to demonstrate that.

Discussion ensued. Ms. Marton made it clear at the last meeting that she only represents Mr. Raymond. She does not represent Mr. Papanickolas or any other tenants on this parcel. Attorney Harding agreed that she does not represent his client. The commission reminded attorney Harding that they were not allowed on Mr. Papanickolas's property the last time they were on site. However, they still were able to witness impacts to BMPs. The commission could see runoff from the mulch piles onto abutting lots. If the BMPs on the abutting property are being impacted they are not able to meet their permit requirements. Attorney Harding did not agree that mulch was impacting abutters. He also reminded the commission that JD Raymond is not his client. However, Mr. Raymond is a tenant on the property in question and rents from his clients.
Discussion ensued.

MR RIZZO: Something needs to be done to address any future impacts to the neighbors. Why can't we work together?

Discussion ensued. Attorney Harding eluded to the fact that they do not have control over Mr. Raymond's daily activities.

MR RIZZO: It is your property. You need to maintain your property. You have a tenant. You allow people on your property to conduct their business. It is your responsibility as the property owner to make sure their business is being run properly and is not adversely impacting one of the neighbors. It is not the neighbor's responsibility to do that. It is you as the property owner. You need to make sure that the work and activity on that property is being done properly. We are observing currently, or at least a couple months ago, was not.

Discussion ensued. Attorney Harding did not agree that the property owner had to share in the responsibility Chairman Rizzo eluded too. Attorney Harding stated that Mr. Raymond should sit down with the abutter or delegate from the commission to discuss. The commission reminded him that this item has been on the agenda for months with little to no action.

MR COMAK: Through the chair. I am not an attorney, but I have seen a lot of leases. I have never seen a lease that doesn't say somewhere that the tenant can not do anything illegal. If he is doing something illegal, then it is the owner's responsibility to make sure that it doesn't happen.

Discussion ensued. The commission asked Attorney Harding to read the letters from Attorney Panos. The letters explain the abutters issues in detail. The commission questioned as to why they have never acted on anything mentioned in the letter. The parties all keep returning without fixing issues mentioned. Attorney Harding still persisted to try and persuade the commission throughout the evening into issuing a premature Order of Conditions. There are currently still serious problems on the site that the commission would like addressed before moving forward with the NOI acceptance.

MR CALLAHAN: I was not able to make the site visit you were talking about. What were the negative impacts you saw so I can write them down?

MR LAZARES: There was flooding of the land because the culvert was clogged. Or that is what we think. There was flooding of the land so that was not being managed by the landlord. We saw the mulch piles. We went onto Weiss's property. We saw BMPs that were in great shape except now they were soggy because the flooding had raised the water level. It didn't allow water to drain off properly. On top of that we saw mulch in the swales on Weiss's property.

MR RIZZO: You could see the dyes from the mulch color that infiltrated into their BMP. That they spent hundreds of thousands of dollars on. They are required by their permit to construct and maintain. How can they maintain their BMP when somebody is putting something into it and not allowing it to function the way it is designed? We saw that. The mulch piles were pretty close.

Discussion ensued. The commission reminded everyone present that the letter from Hayes Engineering that was presented shows pictures of what the commission saw on their site visit. All the negative impacts have been documented and submitted to the ConComm over the course of the months the item has been on the agenda either from Hayes Engineering or Attorney Panos.

MR LAZARES: You need to get the landlord to fix the plumbing and talk to the tenant about keeping his dirt out of someone else's window. Right now, it is blowing everywhere. The other thing I have a problem with mentally is that the mulch piles do catch fire. There is no remediation yet. I would like to see sprayers of that mulch. The landlord is responsible for the property. If you rent it to somebody that pollutes and trashed the place; you are responsible for cleaning it up. You are even more responsible if the stuff starts to travel. That is what is happening.

Discussion ensued.

Russell Donovan, 12 Quail Road

MR DONOVAN: I recently called the board of health. I complained about a property out there. I am not sure of the exact address. I drove down the 95 interchange and I saw the huge piles of mulch. They were turning over, and steam was coming out of it. There was clearly an odor. Later in the evening when the wind was blowing my way on Quail Road. I smelled it! I called DEP up in the past recently complaining about the erosion problem up in that area. If you drive down Farm Avenue you can see the dirt on the road. That is obviously being blown over by the wind and the

rain. As I drive by it looked like they were filling in near the wetlands by the road to create more truck terminals or whatever. I recently complained, two weeks ago, to the board of health. There is a problem up there. I want the conservation commission to know this. There is a problem out there, but I don't know who is creating it. I know there is an erosion problem and it looks like they are filling in wetlands. You guys have got to take care of it.

ATTY PANOS: In addition to the concerns specifically in regard to the NOI application. Peter Ogren from Hayes can speak to this more specifically and technically. I am a lawyer not an engineer. It seems to me that you can not judge the effectiveness or the potential effectiveness of the NOI petition and the submitted plan. Even the O&M Plan that was submitted back in January without the stormwater checklist, without the hydraulic calculations, without the stormwater management report against which to compare that to. You can not judge whether or not the improvements that are depicted on the new plan that was submitted and presented back in December and again in January are going to work. Until you have that corresponding information, again I defer to Peter, that are required under the regulations. They are very specific and not general and vague. Specifically, in regard to the illegality, the petitioner's tenant has been operating without a special permit since day one. I looked at this. I was the chair of the zoning board of appeals for this city for ten years. I know the zoning ordinance pretty well. I can tell you that before this property became DDD the use of storing mulch piles and contractor's yards and the like was not permitted. It was not permitted at all. When it became permitted, this is important, it is not a permitted use. Therefore, it was never allowed there. Whether you started it or not. If you started it at that time; you started it illegally and it never got the benefit of grandfathering. It just doesn't. Illegal uses do not become preexisting nonconforming. They can not as a matter of law. If the use started after the use became permitted by special permit, then a special permit was required. There is your illegality at the very base level.

MR RIZZO: Can you speak on that matter? Is there a special permit required for that usage on this property?

ATTY HARDING: I can not speak for Mr. Raymond's business. He is he one that has to apply for a special permit or not. There is history and if this commission wants to go into it. Again, these are zoning matters. Ms. Papanickolas here has the history on this and numerous city officials repeatedly advised Mr., Raymond that he did not need a special permit for this use. Again, I can't be here representing whether he needs a special permit or not. My understanding is that he has made a business decision to apply for one so there is no issue about it. He started in the early nineties. He has been there thirty years, and no one has said boo about this until now. My understanding is he is in the process and working with his attorney and consultant to file for a special permit. Whether he technically has to or not. I don't see what good it does to debate that.

Discussion ensued.

MR RIZZO: I want to make one thing clear. We want to see this done and we want to see this done right. We also want the property to be looked at as a whole. To be good neighbors. To try to mitigate what is happening up there. Whatever it might be. If someone's property is being impacted, air quality, dust controls or stuff blowing in the summertime. We need something to happen up there. I have a hard time approving this NOI until I see something.

MR WELTON: Through the chair. We would like to have a commitment that the culverts are cleared. A report that shows the culverts are clear. If a stormwater management checklist isn't filed, file it. If it is filed, we encourage you to talk with Mr. Weiss and Mr. Raymond about maybe moving his mulch piles.

MR WOJCIK: Regarding the stormwater checklist. Are we asking for that as the property as a whole? I personally would like to see how the rest of the property shapes up in compliance with the stormwater checklist.

MR RIZZO: I don't know the answer to that question but it is a good question. 25 Farm Avenue is 25 Farm Avenue.

Discussion ensued. One commissioner was concerned that JD Raymond's use of the property has expanded significantly closer to the wetlands. Therefore, they felt that the stormwater documents were even more important. The discussion continued in different directions.

MR WELTON: Could we suggest that they go step by step through the letter that was submitted by Mr. Panos. That way when we come back to the next meeting we don't spend an hour going over this again?

Discussion ensued. The commission and city staff agreed. They want the applicant/property owner to submit rebuttals for the most recent letters submitted by Attorney Panos and Peter Ogren of Hayes Engineering.

ATTY PANOS: Through the chair. In my letter of January 24th to clarify what is going on at the property. I had suggested, starting on page five of the letter, to have the applicant prepare a key plan. It would depict the various activities. In that December meeting you recall there was a lot of confusion as to what was happening where. Particularly with regard to the violation order and the exact location of the culvert. The application of the property subject to the NOI. Then you have another trucking operation happening adjacent to that. I think there was two trucking operations. To help eliminate all of that confusion if we could see a plan of the aggregate property showing generally or as specifically as possible where those activities are taking place. What those activities are. I think from that the commission will be able to discern, with Brendan Callahan, whether or not there are impacts to resource areas that are within the jurisdiction of this commission. The letter that you spoke about was from Hayes Engineering. It is a part of your record dated November 14, 2018. I have it in front of me and I have extra copies if you would like it. It showed a ten-year aggregate aerial view showing the aggregate activities on the site. We showed a substantial expansion of several acres. I will call it several acres because I really do not remember the number. 5.3 acres plus or minus of additional disturbance over that ten-year period of time. We did show evidence much of which was definitely in buffer areas. Some of which was possibly and probably in resource area. That is part of your record.

MR RIZZO: Did you take those notes down of what we are expecting at the next meeting?

ATTY HARDING: Yes. I believe so.

Discussion ensued. The commission would like Mr. Papanickolas's engineer to respond bullet by bullet to the letters submitted by Hayes and Attorney Panos. The commission also asked for a plan showing all the uses (existing uses and proposed uses) on 25 Farm including any stormwater existing (or under construction) infrastructure. The commission also requested the stormwater documents discussed earlier in the evening. These documents should be prepared for the March meeting. Attorney Harding stated again that he believes Mr. Weiss is attempting to destroy his competition (JD Raymond) by interfering with the NOI. The commission did not agree with that statement. Discussion ensued. The commission reminded everyone present that they only have jurisdiction on wetlands related issues. Zoning and land use are through another department. The commission suggested that all parties try to meet outside the hearing to hopefully hash out the issues so there is not an hour plus discussion at every meeting.

Motion to continue as made by Mr. Welton. Seconded by Mr. Lazares. Adopted unanimously.

Item #11 taken out of order

CERTIFICATE OF COMPLIANCE

11. A request for a Certificate of Compliance made by Amanda Houle (Tighe&Bond) on DEP file No. 55-834. The project is known as Elginwood Pond Dam Improvement Project at 0 Lowell Street, Map 24, Lot 82, Peabody MA.

Present: Amanda Houle (Tighe & Bond)

Motion to issue a FULL Certificate of Compliance as made by Mr. Lazares. Seconded by Ms. Feld. Adopted unanimously.

NOTICE OF INTENT continued

3. A continued public hearing on a Notice of Intent submitted by Elizabeth Wallis & Peter Ogren (Hayes Engineering) for Seven Dearborn Limited Partnership c/o Joe O'Donnell (owner). The applicant proposes to construct a parking lot with associated drainage and stormwater systems as part of site redevelopment for a new apartment building. The property is known as 7 Dearborn Avenue, Map 78, Lot 19, Peabody MA.

Motion to continue as made by Ms. Feld. Seconded by Mr. Howcroft. Adopted unanimously.

4. A continued Public hearing on a Notice of Intent submitted by Matthew Salem of Solitude Lake Management for the City of Peabody/Community Development. The proposed work is the management of excessive aquatic vegetation and algae in Bartholomew Pond, Crystal Lake, Devils Dishfull Pond, Elginwood Pond and Sidneys Pond through an integrated management plan utilizing US EPA registered & state approved herbicides and algaecides. The property is known as Bartholomew Pond, Crystal Lake, Devils Dishfull Pond, Elginwood Pond and Sidneys Pond, Peabody MA.

Present: Kara Sliwoski (SOLitude)

Discussion ensued regarding drinking water wells in close proximity to targeted treatment areas.

MR LAZARES: The concern was people with drinking water wells. Apparently, you are saying that is not a concern?

MS SLIWOSKI: Not for us. Unless people's direct water intake is literally pumping from the ponds itself. Knowing the ponds. I would like to hope that people are not physically drinking Crystal Lake and Elginwood Pond water. If that is happening, then that would be a concern for us.

Discussion ensued. There was a brief conversation about hydro raking Elginwood. Kara from SOLitude explained that was not part of the current NOI. If the city wanted to hydro rake they would apparently need to file a separate NOI according to SOLitude. City staff was confused as to why it was not included in the present NOI. Residents Dick and Pat Watt were at the meeting. They requested the commission make a motion about replacing stoplogs on Devils Dishfull that have disappeared. The Watt's and city staff have made numerous attempts since January 7, 2019 to find out if the stop logs were removed for a reason. The commission assumed since no departments responded to the inquires that the stop logs could be replaced. Ms. DelNegro and Chairman Rizzo reminded the commission that perhaps the stop logs were removed for a reason (chronic flooding on Beeman Road and at 71 Lake Street). Regardless, the commission felt that the water level probably needed to be raised anyways for SOLitude to treat some areas of the pond.

Motion to replace the three (3) stop-logs adjacent to Devils Dishfull (near Lake Street). The three stop logs should bring the elevation to 84 feet per the letters attached as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously 7-0.

Discussion ensued. The NOI application was open for members of the public to comment.

Russell Donovan, 12 Quail Road

MR DONOVAN: Based on December's meeting where a number of residences stated they were using well water up there in that area. I emailed the DEP and the board of health concerned about well water up there. About twenty years ago the city closed down the Pine Street and Johnson Street wells because of contamination. I was concerned that the neighbors up in that neighborhood might have never been notified that there was contamination in the well water in the city well water. I was concerned they were using it. The water supply for Johnson Street and Pine Street were shut down because of contamination from 128 Newbury Street. I got a response from the DEP that private well water is governed by the board of health of the city of Peabody. With that I sent the corresponding email to Sharon Cameron. She responded back promptly saying that some sort of licensed professional had recently done back in 2018 Pine Street and Johnson Street wells. The contamination levels were below the EPA requirements.

Discussion ensued regarding private wells. There were no other comments from the public.

Motion to close the public hearing as made by Mr. Welton. Seconded by MR. Wojcik. Adopted unanimously.

Motion to issue an Ecological Restoration Order of Conditions 1-23 adding condition numbers 24) License to Apply must be submitted to the Commission before any work commences. 25) Fueling of gas tanks for the boat engine must take place as far from the resource area as practicable as made by Mr. Wojcik. Seconded by Mr. Howcroft. Adopted unanimously (vote passed 7-0)

5. A continued Public Hearing on a Notice of Intent submitted by Greg Hochmuth- Williams & Sparages, LLC for Patrick Coburn-AmConCorp (applicant). The proposed work is the demolition of an existing single-family home and the redevelopment of the the property to include a commercial building and parking lot. The property is known as 3 Mount Pleasant Drive, Map 29, Lot 6, Peabody MA.

Summary: The engineering department had outstanding comments on the proposed plans. The commission did not feel that they could vote on this project until the engineering department gives it their blessing. The consultant asked for a continuance as well.

Motion to continue the public hearing as made by Mr. Lazares. Seconded by Ms. Feld. Adopted unanimously.

6. A Public Hearing on a Notice of Intent submitted by Frederick Geisel (CEC, LLC) for the property owner Steven Georgion. The proposed work is the construction of an addition to an existing single-family home. The property is known as 13 Goodridge Street, Map 103, Lot 53, Peabody MA. "After the fact" filing.

Present: Fred Geisel (Wetland scientist and engineer for CEC, LLC), Gregory Boghosian (architect), Steven and Neva Georgion (owners)

Discussion ensued. This was an after the fact filing. Staff suggested putting a "finding" on the Order of Conditions. The agent only recommended adding a "finding" in case the addition floods

in the future. The property owner stated they would have a basement that would be used for storage. Not all members of the commission thought that was necessary. No one was worried about the addition flooding including the property owners and their engineer.

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

Motion to issue a standard Order of Conditions 1-47 adding condition number **48**) The Cultec Recharger shall be inspected and cleaned a minimum of once a year. The property owner is responsible for this yearly cost as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

7. A Public Hearing on a Notice of Intent submitted by Scott Cameron (Morin-Cameron Group, Inc.) for Town Lynn, LLC (owner). The proposed work is landscape and hardscape improvements, including parking lot, renovation for handicap access, new walkways, landscaping and patio areas. The property is known as 10 Newbury Street (aka "Spinelli's"), Map 88, Lot 1, Peabody MA.

Present: Michael Laham (Morin-Cameron Group), Scott Cameron (Morin-Cameron Group) and Costas Apostolopoulos (Spinelli's representative)

Discussion ensued. The commission did not think the consultant provided enough treatment considering the projects close proximity to drinking water. The commission asked the applicant to consider redesigning the project to ensure Peabody's drinking water would be protected more. The applicant was hesitant because the water department and DPS have already signed off. The commission understood but still requested they investigate further protections if possible. A resident was also present and had similar concerns with regards to the drinking water supply (herbicides, salts etc. getting into the resource). The commission also asked for signs along the edge of the parking lot to remind patrons that the area is environmentally sensitive. The engineer Scott Cameron agreed to try and revise the plans the best he can that will satisfy all parties.

Motion to continue as made by Ms. Feld. Seconded by Ms. Feld. Adopted unanimously.

8. A Public Hearing on a Notice of Intent submitted by Normandeau Associates (Sarah Allen) for Massachusetts Department of Transportation-Highway Division. The proposed work is the installation of a noise barrier along the northbound and southbound lanes of route 128 between Andover Road Interchange and Waters River. The property is known as Route 128, Map n/a, Lot n/a, Peabody MA.

Present: Benjamin Griffith (Normandeau Associates), Benjamin Holsapple (WSB) and Paul King (MASSDOT)

Summary: The plans have been slightly changed since submittal. There was a brief overview of the proposed project. One resident inquired about the critters in the area. **Discussion ensued** regarding critter crossings and other environmental challenges. The neighborhood has requested this wall to be constructed. There have already been meetings with the neighbors. Since the plans have been revised recently the commission felt they could not vote. DPS needs a copy of the revised plans and the commission needs time to review said revised documents.

Motion to continue as made by Ms. Feld. Seconded by Mr. Welton. Adopted unanimously.

EXTENSION REQUEST

9. A Request for an Extension Permit on DEP File No. 55-673. The request is being made by Carl Crupi. The project is the construction of a single-family home located at 1 Antonio Drive (map 106, Lot 98). The Order expires on 5/15/2019. The applicant is asking for a one-year extension.

Motion to extend one year (extended until 5/15/2020) as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

CERTIFICATE OF COMPLIANCE

10. A continued request for a PARTIAL Certificate of Compliance made by Joseph Orzel (Wetlands Preservation, Inc.) on DEP file No. 55-800. The property is known as 252 Andover Street, Map 39, Lot 25C, Peabody MA.

Summary: The As-Built plan is not accurate. City staff has asked for a revised As-Built plan showing what was constructed on the property. City staff also requested a letter from an engineer pointing out any discrepancies or changes from the original plan.

Motion to continue as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

12. A request for a Partial Certificate of Compliance made by David Cutler on DEP file No. 55-854. The project is the construction of a single-family house located at 0 Arnold Avenue, Map 73, Lot 102, 103 and 104, Peabody MA.

Summary: David Cutler was not present as he was out of the state. There was a minor misunderstanding with conservation staff. Mr. Cutler is not looking for a partial or full certificate of compliance. He was hoping to get a partial Occupancy Permit from the building department. As a courtesy he wanted the Commission's blessing before he requested it. He submitted a letter to the commission explaining that monies would be held in escrow until the project received a certificate of compliance (estimated \$20,000.00 to be held in escrow). Two abutting neighbors, a married couple, were in attendance and did not understand he was only looking for sign off from the building department. He has a buyer lined up with a projected closing date of March 5, 2019.
Discussion ensued.

MS DELNEGRO: Dave is a great guy and I know he is going to do the work. If he doesn't I don't want to look like the idiot here. I know that these people are upset. You might want to talk to them first.

Discussion ensued. Dave's letter is requesting the commission to sign off for him to only get a Certificate of Occupancy Permit from the building department. He is not requesting a Certificate of Compliance from the commission at this point. Ms. DelNegro stated she did not feel comfortable signing off without the consent of the commission. **Discussion ensued.** The commission did not make any decisions. Someone will be in touch with David Cutler to explain what they want to see done before any signs off are approved. An unnamed resident chimed in and said it was not the commission's purview to issue occupancy permits. The issuance of occupancy permits comes from the building department and not the commission. Ms. DelNegro left the room for the remainder of the conversation. **Discussion ensued.** There was not a vote taken as nothing was before the commission. A decision was not agreed to by the commission. They denied the request for a Certificate of Compliance as no documents were submitted for approval.

13. A request for a Partial Certificate of Compliance made by Michael Solomine on DEP file No. 55-853. The project is the construction of a single-family house located in Boudlerwood Subdivison 15 Tsitsinos Drive, Map 114, Lot, 143, Peabody MA.

Motion to issue a Partial Certificate of Compliance as made by Mr. Wojcik. Seconded by Ms. Feld. Adopted unanimously.

APPROVAL OF MINUTES

NONE

SUBCOMMITTEE REPORTS

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

OTHER

•17 Troy Street- Discussion requested by Bill Kersetter

Summary: Mr. Kersetter owns 17 Troy Street. He made a special flight from Texas to appear at the meeting. His father recently passed away and he inherited the house at 17 Troy Street. The property was built in 1920 (according to the assessor's database). The garage is associated with 17 Troy but was constructed on a paper street located on city property that was grandfathered. The next-door neighbors that reside at 19 Troy Street filed a complaint with the Commonwealth of Massachusetts Land Court to have the structure removed. The court made an Order for the structure to be removed in December 2018. The commission felt the work could be done under an Emergency Order.

Motion to issue an Emergency Certificate as made by Mr. Wojcik. Seconded by Mr. Comak. Adopted unanimously.

•Adjournment

Motion to adjourn as made by Ms. Feld. Seconded by Mr. Wojcik. Adopted unanimously.

The meeting adjourned at 11:30 pm.

Respectfully submitted-

Chairman Michael Rizzo