



## City of Peabody Conservation Commission

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### MINUTES

**SEPTEMBER 11, 2019**  
**DEPARTMENT OF PUBLIC SERVICES**  
**50 FARM AVENUE**

#### **MEMBERS PRESENT**

Chairman Michael Rizzo  
Vice Chairman Bruce Comak  
Secretary Stewart Lazares  
Travis Wojcik  
Michael Vivaldi (alt.)  
James DiGiulio (alt.)

#### **MEMBERS ABSENT**

Melissa FeldCantin  
Bryan Howcroft

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

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

**PROPOSED NEXT MEETING DATES-** October 16, 2019 and November 13, 2019

**DPS- 50 Farm Avenue**

Alternate Commissioners Michael Vivaldi and James DiGiulio were given voting rights in the absence of two commissioners.

## **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 (legal counsel), Crystal Papanickolas (property owner), Chris Mello (ELSAI) and John Karamas (contractor)

ATTY HARDING: To briefly recap, we were here in July. At which time Mr. Mello discussed his letter from May of 2019. After work was done it was determined that there were errors in the work. There were adjustments that were needed. During the July meeting it was discussed that Mr. Mello would prepare a revised site plan to address the corrections and adjustments that need to be made. We filed that with the commission in the middle of August. We are basically here to consider or for the commission to consider approving the site plan. Mr. Mello is here to address any questions the commission has regarding the plan as filed. Mr. John Karamas is the contractor who would do the work to implement the plan if it is approved. He is here to discuss any questions regarding construction, timeline and those sorts of issues. Mr. Callahan indicated to me today that as soon as the plan is approved Mr. Karamas will be able to start the work. He doesn't know precisely how many days it will take. If it is approved tonight, I don't see any reason why it could not be completed by September 30<sup>th</sup>. The issue becomes that we have item two on the agenda. A previously filed application for a Certificate of Compliance. The issue would be assuming the work was done can that application be amended?

**Discussion ensued** regarding the Certificate of Compliance (CC). The CC request can remain on the agenda. However, the applicant would have to submit a revised As Built plan to show the changes from the originally submitted plan to the now approved plan and final construction. This would need to be submitted to the commission staff on the appropriate deadline date for the appropriate meeting they wish to attend. Mr. Mello went over his revised plan. The commission received a letter that pointed out the five changes to the plan. The stormwater system has been revised. Brendan stated that Bill Stansfield (city's environmental engineer) reviewed the stormwater calculations and he had no comments.

MR RIZZO: I recall at the last meeting there were several things we were looking for. We requested that you provide to us.

**Discussion ensued.** Mr. Lazares stated at the last hearing the commission asked for several items from the applicant. **1)** A revised plan with supporting calculations. These were submitted and approved by Bill Stansfield and Brendan Callahan. **2)** A timeline of construction. Mr. Callahan also sent a follow up email reminding the owner's attorney. There has been no timeline submitted for said construction work to date. At the July hearing Vice Chairman Comak stated that he wanted a timeline submitted for review. The commission agreed that if the work cannot be done in the timeline the commission will not approve it. Mr. Mello also promised at the July hearing that the commission would receive a timeline '*no problem*' by the end of August. **3)** The commission has been asking for a "site plan/use plan" for the entire parcel (showing which tenants operate and where). Attorney Harding stated that he sent a timeline in an email to Brendan. The timeline is to finish by the end of September if the plan gets approved tonight. Mr. Callahan confirmed that he did in fact receive this email on the morning of the hearing.

MR LAZARES: These things were asked to be given to us before the end of August. That we would have time to receive it and review it as commissioners. Dropping it off tonight is an insult. We have been doing this now for a year. We did not get it. I have no idea what the timeline says other than what you are telling me.

**Discussion ensued.** Atty Harding stated he would submit it in writing so it can be part of the file. Mr. Lazares also reminded the property owner and their counsel that they still need a “use plan” for the entire parcel. The “use plan” should show the following: wetlands, tenant names and approximate area of work space, any culverts etc. The property owner has not submitted an “use plan” to the commission yet. The commission has been requesting this document for months.

ATTY HARDING: The site use plan has always been in the context of our application for a NOI. it has absolutely nothing to do with the violation.

MR LAZARES: You guys said you were going to give it to us.

ATTY HARDING: Yes, and we don't have it completed yet because we haven't been able to identify a map that is suitable. There are issues with the one that Mr. Panos suggested we use. We are trying to identify one. We wanted to make sure that our priority was addressing the violation order. That is number one on the agenda. The commission has indicated in July and in prior meetings that until issue number one is addressed to the commission's satisfaction and a CC is issued. They are not going to consider anything to the merits of the application for the NOI. I discussed with Mr. Callahan today. We don't want to waste the commission time tonight discussing that NOI. Our point here is to get the violation corrected. Get you the revised use plan. We were just unable to do it in time for tonight's meeting.

MR WOJCIK: Through the chair. Just because we are not going to discuss something tonight doesn't mean we don't want the information. We want the information on the deadlines. This has been going on forever. I have been through three jobs since this has started. This is absolutely mind boggling to me.

ATTY HARDING: Ms. Papanickolas provided the commission with a plan that she thought would identify the approximate locations.

**Discussion ensued** regarding the “use plan”. Attorney Harding stated the commission never specified or defined the parameters for the plan. He also stated he would not agree to submit an engineered plan to the commission. He stated it would be cost prohibitive in the amount of about \$20,000 dollars. The commission stated that was fine and there are plenty of online free GIS applications available to the public (example: MASSGIS-OLIVER or App-Geo-City of Peabody). Attorney Harding asked again what specifically the commission wanted on the said “use” plan.

ATTY HARDING: My point here is that none of this has anything to do with number one on the agenda. Which is getting a plan approved. Mr. Karamas is here if you have questions about the construction or about the timeline.

**Discussion ensued.** Mr. Lazares explained the commission needs a “use” plan showing wetlands, all tenants and their property use for the entire parcel known as 25 Farm Avenue. Attorney Harding stated that was clear and that he could do that. Mr. Rizzo reminded Attorney Harding that they agreed and volunteered to prepare something at the last meeting for submittal in August. **Discussion ensued.** The commission was upset that they were promised a use plan and one was never received. They told Attorney Harding to read the July minutes to refresh his memory of exactly what he promised would be submitted. A commissioner read verbatim minutes aloud to remind the applicant what was asked for at the last hearing and what was agreed to by the petitioner. The commission asked Mr. Karamas to speak. He stated he could finish the work proposed by September 30<sup>th</sup>. He also stated the work will only take a few days to complete. The commission reminded the property owner that if the work is not complete by September 30<sup>th</sup>, they could fine them. There was a further discussion regarding Bill Stansfield being on site during construction. Karamas stated that he can be in touch with the city engineer. Chairman Rizzo

stated he would like Bill Stansfield to be on site during key milestones of the project. He would like Bill to identify the milestones to the applicant. He does not expect anyone from the city to be on site during the entire project. **Discussion ensued.**

MR RIZZO: That way he can't say I didn't see you do this or that. Maybe he only needs to be there when you begin. Or when you backfill the pipe. Maybe he will want to observe the material that will line the detention area. That way he is aware of what happened, and he understands what you did on site. That way no one can come back and say you didn't do something right.

MR KARAMAS: Understood.

MR RIZZO: Back to the timeline. The commission wants this job done. We don't want anymore holdups. We appreciate that you can do it relatively quickly. The commission is saying that if it is not done by a particular date they will issue a fine. I will ask the question again. You want to give yourself enough time.

MR KARAMAS: September 30<sup>th</sup>.

**Discussion ensued.** The commission made it clear that they want Bill Stansfield notified in writing (email is sufficient) by Mr. Karamas as discussed above. They also want Brendan and Chairman Rizzo copied on said email notice. That way there is a record of the notice. Mr. Lazares also requested a letter from Attorney Harding to the commission stating the property owner has agreed to finish said work by 9.30.2019. Attorney Harding agreed. He also reiterated that if the work is not done by the 30<sup>th</sup> of September they will be fined. He reminded them that the commission can fine violators \$300 per day as stated in the Local Ordinance Chapter 32. Mr. Comak also reminded Attorney Harding and the property owner that the commission wants a "use plan".

MR COMAK: I guarantee you can go to the high school and get a kid to do a GIS drawing that shows everything we are looking for. I am not asking for a \$20,000 dollar engineered plan. I want it for the next meeting. We have been asking for it for six months now.

MR WOJCIK: I want to say that I know I said engineered plan. What I meant to say was MASSOLIVER is a great GIS database.

MR LAZARES: I want that plan by the end of September. It is not a big deal to do. You go online you print it out. We are just looking for who is on what piece of land and what do they do and where the wetlands are.

ATTY HARDING: Okay why don't we make September 30<sup>th</sup> the same date.

**(Aside:** The deadline for the October hearing is 9.19.19 at noon. The commission has approved an extension of the deadline for the property owner. The deadline is 9.30.19 for all documents requested.)

**Tony Capachietti, Hayes Engineering (engineer)**

MR. CAPACHIETTI: I represent the abutter at 27R Farm Avenue. I think they are on the right track. We don't have any comments on the drainage plan. They did say the erosion controls would be installed prior to this meeting.

MR RIZZO: That is right. That was said.

MR RIZZO: I would ask that the erosion controls are installed before said work is done and inspected. Typical of any other job. I think the timeline is a bit aggressive. There is a history of over promising and under delivering with this project. Realistically if they finish on the 30<sup>th</sup> that gives Mr. Mello a small window to file the As Built following your submission deadlines. It would have to be in your hands in a couple of days. I would suggest that maybe the board extend the timeline. Get it done and get it done right. Submit an As Built and get it on the November meeting? That will give you time to review it. Those are my concerns. If we set it up for failure, we will be here next month again arguing.

**Discussion ensued** regarding closing out the Order of Conditions and issue a Certificate of Compliance. The commission was not anticipating voting on the Certificate of Compliance request at the October meeting. However, they do want the work complete and various documents submitted as discussed earlier in the evening. Chris Mello said if the work is completed on 9.30.19, he can bring the As Built to the October meeting. The commission asked the As Built to be emailed to Brendan as soon as it is drafted. The commission decided that the Certificate of Compliance request will not be heard until the November meeting. That way Chris will be able to honor the deadline of October 17. They do want the “use plan” by the end of the month. Attorney Panos was also present for his client the abutter at 27R. A heated discussion ensued when Hayes Engineering tried to submit a “use plan” on behalf of the petitioner.

Motion to accept the revised plan and give the petitioner permission to finish the repairs and changes based on the new plan as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

The commission reminded the contractor to keep in touch with the city’s environmental engineer as discussed earlier in the evening. The commission also reminded them that they agreed the work would be completed by September 30<sup>th</sup>. They promised to submit the coveted “use plan” by September 30<sup>th</sup> as well. They also reminded them they must install and refresh erosion controls on site before any work can commence. Mr. Mello stated he could stake out where the erosion controls should be located on Monday September 16.

**2. A continued request for a Certificate of Compliance made by Emmanuel Papanickolas on DEP file No. 55-822. The project was the construction of an asphalt pad, fencing and stormwater enhancements. The property is known as 25 Farm Avenue, Map 69, Lot 6, Peabody MA.**

Motion to continue until the November hearing as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

### **NOTICE OF INTENT**

**3. 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).**

Motion to continue until the November agenda as made by Mr. Wojcik. Seconded by Mr. Vivaldi. Adopted unanimously.

## **CERTIFICATE OF COMPLIANCE**

**4. A request for a FULL Certificate of Compliance made by Kevin Lucey for 795 Jubilee Drive LLC on DEP file No. 55-844. The property is known as 795 Jubilee Drive, Map 90, Lot 14 & 15, Peabody MA.**

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

**5. A request for a PARTIAL Certificate of Compliance made by Joseph Salvaggio on DEP File No. 55-787 asking for release on LOT #1. The property is known as 1 Yvonne Way (f/k/a 83 Winona Street and 86 R Pine Street), Map 45, lot 21A, Peabody MA.**

Motion to issue a partial Certificate of Compliance to release Lot #1 (now known as 1 Yvonne Way) as made by Mr. Comak. Seconded by Mr. Vivaldi. Adopted unanimously.

**6. A request for a FULL Certificate of Compliance made by Michael Laham (Morin-Cameron Group, Inc.) on DEP File No. 55-757. The property is known as Spinelli's 10 Newbury Street, Map 88, lot 1, Peabody MA.**

**Present:** Michal Laham (Morin-Cameron Group)

**Summary:** The rear addition was never constructed. Only portions of the work have been completed. The owner has received a new Order of Conditions DEP file No. 55-868 for patio work and parking lot features.

Motion to issue a complete Certificate of Compliance also checking off "invalid Order of Conditions" stating only portions of work have been completed. Also stating the O & M plan is in perpetuity as made by Mr. Wojcik. Seconded by Mr. DiGiulio. Adopted unanimously.

## **NOTICE OF INTENT CONTINUED**

**7. 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 Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

**8. A Public Hearing on a Notice of Intent submitted for Robert Labossiere (Director of Public Services) by Mel Higgin (Weston & Sampson Engineers). The proposed work is the construction of a water transmission main. The properties are known as Peabody Road, Lowell Street, Summit Street, Lynnfield Street, Norfolk Avenue, Maple Street and Brown Street, Map-n/a, Lot-n/a, Peabody MA.**

**Present:** Cassandra Albrecht (Weston & Sampson) for the city

**Summary:** No one from the city's engineering department was present at the hearing. The Public Service Department will be constructing a water main. It starts in the east on Lynn Street and will continue to Route 1. The Winona Water Treatment Plant will be undergoing renovations in the Fall of 2020. The transmission main is necessary to ensure people in the west side of the city will continue to receive water during this construction. **Discussion ensued** regarding water pressure. The proposed water main will be permanent. The commission discussed the four (4) brook crossings (culverts). The waterways pass under the road inside culverts. There are four locations  
**Page 7– 9.11.2019**

(two on Lowell Street and two on Summit Street) Ninety five percent (95%) of the work will be done in the existing roadway. There are also wetlands near the Route 1/Clark Road portion of the project as well as the Brooksby Village portion. There was a brief discussion about the trees that will be removed by Brooksby. The item was open to the public for discussion. A resident named Mrs. O'Keefe of Lowell Street wanted to know if she would be blocked from getting out of her driveway. Cassandra explained they do not anticipate blocking any properties from roadway access.

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

Motion to issue an Order of Conditions 1-20 as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

**9. A Public Hearing on a Notice of Intent submitted for Bill Steinberg (13 Centennial Drive LLC) by Garret Horsfall (Kelly Engineering). The proposed work is the addition of 9 trailer parking stalls and eleven (11) car parking stalls associated with new tenant improvements. The property is known as 13 Centennial Drive, Map 92, Lot 10, Peabody MA.**

**Summary:** Test pits must be done before the commission will vote.

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

#### **VIOLATION ORDER**

**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.**

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

#### **APPROVAL OF MINUTES**

**11. MINUTES- July 24, 2019**

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

#### **DISCUSSION ITEM**

**12. Request for discussion by Stephen Haight from Civilworks New England regarding DEP File No. 55-859. The property is known as 12 Crowninshield Street. The stormwater components approved by the commission have been revised. The proponent wants to know if a formal Amendment request is necessary at this time. The work is a proposed expansion of a parking lot in FEMA Flood Zone A.**

**Present:** Frank Quirk (Crowninshield), Steven Haight (Civilworks New England- Engineer), John Johnson (CSI)

**Summary:** A few things have changed on the approved plan. The applicant was in front of the commission requesting approval for changes regarding the stormwater components. They asked if they could substitute the UniStorm instead of the approved Stormceptor STC900. Staff verified the UniStorm did have a MASTEP Technology Review for TSS removal. The document has been submitted to the commission for review. The retaining wall location and type has also changed from the original plans. No comments from the public. The commission did not think a formal

Amendment Request was needed. All changes can be reflected on the As Built Plan once the work has been completed.

Motion to accept the revised documents for **DEP file No. 55-859** with the stipulation a revised plan and revised O&M are submitted. The property owner must submit an As Built Plan when requesting a Certificate of Compliance as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

### **OTHER**

#### **13. Any other matter presented to the commission at this time.**

Andrew Ellis- 24 Pinewood Road – Requesting permission to remove a tree that is a potential hazard to the owner's safety. Mr. Ellis agreed to replace the tree with some smaller plantings. Whitcomb Tree will remove the tree with a crane. The crane will be parked on the front of the property. Ms. DelNegro will forward him an approved list of plantings. The commission gave him permission to remove said tree with the stipulation he must plant 4-5 plants from the list provided by staff. They thanked him for appearing in front of the commission before any work commenced.

### **VIOLATION ORDER CONTINUED**

#### **14. Violation 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.**

**Summary:** The property owner was not at the hearing. A brief discussion ensued regarding the nature of the violation. Staff believes that the illegal work was done on city property by the abutting resident Mr. Polini. The property is FEMA Flood Zone A as well as riverfront.

Motion to issue an Enforcement Order with action items as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

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

**Present:** Gregory Hochmuth (Williams & Sparages) and Anna Hathaway (Shirat Hayam)

**Summary:** Mr. Hochmuth submitted a restoration plan to the commission. The debris is very close to the wetlands. However, Greg does not believe any wetlands have been filled. The proposed restoration plan is to put in a twelve-inch diameter mulch sock (erosion control) at the toe of the debris piles. The material will then be carefully removed with a small excavator or backhoe. The work will be done under the direction of a wetland scientist or a competent individual. This will ensure that the trees are not damaged during the mitigation process. The removal effort will also entail a lot of handwork along the trees. It will be scraped back until the old 'A layer' is exposed. The area will then be scarified and seeded with a native seed mix. They proposed to include some enhancement plantings. The following plantings are proposed: silky dogwood, speckled alder, sweet pepperbush and sweet fern. The sweet fern would be placed more in the dryer areas of the site. The commission was curious if the consultant had an idea of how much fill was on site. They will know once it is placed in a truck and removed from site. Charmain Rizzo stated he wants some of the trees wrapped. This will ensure they are protected from the machine work. Anna Hathaway stated she will get quotes from contractors. They have not hired a company yet. Greg stated he can give her a list of names of companies that have a good reputation working in and around wetlands. After the soil has been removed signs or large

boulders will be erected to keep this from happening again. This area is also notorious for random dumpers. Not all the refuse was from the cemetery. There were other random items discarded in the wetlands (car batteries, remnants of a TV, refrigerator bits, etc.) Chairman Rizzo reminded them to please do the work carefully. He asked them to use great caution while working around the larger trees. The commission thanked Anna and Greg for working so politely with the board. Anna and Greg will keep the Conservation Agent apprised as the work progresses. They will check in periodically with updates as the process continues. The commission accepted the plan. The commission requested that the erosion controls are installed as soon as possible. The commission was concerned with future rain days.

- **Adjournment**

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

**The meeting adjourned at 10:00 PM**

**Respectfully submitted-**

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**Chairman Michael Rizzo**