



City of Peabody Conservation Commission

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

MINUTES

September 16, 2020
Via Zoom ID 851 8729 7163

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, this meeting of the Peabody Conservation Commission was conducted via remote participation to the greatest extent possible.

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Secretary Stewart Lazares
Travis Wojcik (left at 8:04 pm)
Michael Vivaldi

MEMBERS ABSENT

Melissa Feld-Cantin

Also Present: Lucia DelNegro, Conservation Agent

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:07 pm

DISCUSSION ITEMS

1. Commissioner Lazares- Maintenance of Crystal Lake and removal of new aquatic plant life.

Summary: Secretary Lazares gave a PowerPoint presentation regarding the water quality and aesthetics of the city's lakes and ponds. He stated he is not affiliated with any of the companies or products shown in the presentation. He is hoping to use a mechanical harvester or hydro-rake on the city's waterbodies. He explained the difference between both options. **Discussion ensued.** Everyone on the commission is very supportive of this type of work being done throughout the city.

2. Attorney Athan Vontzalides- 137 Summit Street- Self Storage Group LLC- Specifically asking if proposed use is defined as a LUHPPL (Land Uses with Higher Potential Pollutant Loads) and/or jurisdictional to the ACT or Chapter 32.

Present: Attorney Athan Vontzalides (legal counsel) and Lisa Carrozza (Stantec)

Summary: The proposed use is outdoor storage of RVs and boats (not to exceed 18 in number) on an existing parking lot with existing stormwater features. A wetland scientist submitted paperwork stating their opinion was the proposed use was not a LUHPPL. **Discussion ensued.** The commission does not consider this use a LUHPPL stating the "Good Housekeeping Practices" mentioned in the summary section of the memorandum must be followed:

- 1-Twice weekly staff inspections of parking lot to observe stains and leaks; explicit instructions to staff regarding clean up and required notifications
- 2-Drip pans to be located beneath the RV fuel tanks (up to 150 gallons)
- 3-On site spill kit to be available and used if necessary
- 4-Twice yearly parking lot sweeping

Attorney Vontzalides stated they would most certainly follow the "Good Housekeeping Practices".

Motion to confirm the proposed "use" is not considered a LUHPPL adding that the Good Housekeeping Practices noted on the memo are followed as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

EXTENSION REQUEST

3. Request from Joseph Salvaggio for an Extension to the Order of Conditions for DEP file # 55-787. The order expires on October 28, 2020. This project was a (3) lot subdivision consisting of (3) three single family homes. The owner is currently completing the final home and expected to be finished shortly after the expiration date. He is asking for a one-year extension per Peabody's Local Ordinance. The property is known as Winona/Pine Subdivision (a/k/a Yvonne Way and f/k/a 83 Winona and 86R Pine), Map 45, Lots 15 & 21, Peabody MA.

Motion to extend one year (until 10.28.2021) as made by Mr. Wojcik. Seconded by Mr. Vivaldi. Adopted unanimously.

REQUEST FOR CERTIFICATE OF COMPLIANCE

4. Request for a FULL Certificate of Compliance as made by Clarence C. Hutto (Pare Corp) and Allen Orsi (Pare Corp) for DEP File No. 55-872. The project is entitled Proctor Brook Dam Upgrades & Repairs. The address is known as 18 Crowninshield Street, Map 0745, Lot 065A, Peabody MA.

Present: Clarence C. Hutto (Pare Corp), Lauren Gluck (Pare Corp), Allen Orsi (Pare Corp) and Matthew Curtin-WinnCo (via cell)

Motion to issue a Full Certificate of Compliance for 55-872 stating that the O&M Plan and EAP are in perpetuity as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

Mr. Wojcik announced he had to leave the meeting. He left the meeting at 8:04 pm.

5. Request for a FULL Certificate of Compliance as made by Clarence C. Hutto (Pare Corp) and Allen Orsi (Pare Corp) for DEP File No. 55-876. The project was entitled Proctor Brook Culvert Repairs (a/k/a Tannery Project Discharge Culvert Repairs). The address is known as 18 Crowninshield Street, Map 0745, Lot 065A, Peabody MA.

Present: Clarence C. Hutto (Pare Corp), Lauren Gluck (Pare Corp), Allen Orsi (Pare Corp) and Matthew Curtin-WinnCo (via cell)

Motion to issue a Full Certificate of Compliance for 55-876 as made by Mr. Lazares. Seconded by Mr. Comak. Adopted unanimously.

6. Request for a FULL Certificate of Compliance as made by Curtis Young (Environmental Consultant/Wetland Scientist) on behalf of Group One Automotive for DEP File No. 55-832. The project is entitled Proposed Inventory Lot. The address is known as 0 Willowdale Avenue, Map 039, Lots 029 & 023, Peabody MA.

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

NOTICE OF INTENT

7. A Public Hearing on a Notice of Intent submitted by Hayes Engineering for the owner SSSD, LLC c/o Sonny Kinleih and the applicant S&S Consultants c/o Syed Nuruzzaman. The proposed project is to perform various activities related to the creation of a cemetery, including grading, retaining wall construction, path installation and landscaping. The property is known as 530 Lowell Street, Map 035, Lot 027A, Peabody MA.

Present: Attorney John R Keilty (legal counsel), Anthony Capachietti (Hayes Engineering)

Summary: DEP file No. 55-878 Mr. Capachietti gave a PowerPoint presentation. The land is presently vacant. They are proposing a traditional Muslim Cemetery. The property is currently owned by the abutting Jewish cemetery. In a traditional Muslim Burial, the bodies are buried "as is." There are no chemicals used. The potential spread of contaminants from a body is about eight to ten feet. They were in front of the commission in November 2019 to discuss the proposal and this was explained previously. Staff was also concerned with soil being dumped in the resource. The applicants explained it is same day burial and they typically use all the soil. They are not anticipating needing to dispose of soil on site. They agreed to a 25 foot No Disturb Zone (NDZ) around the BVW including markers. A walking trail will be constructed along the NDZ and the retaining wall in some areas (as shown approved plans). The plan needs to be revised for various reasons. The current access road is paved and not gravel as shown on plans submitted. **Discussion ensued.** The commission also requested the revised plan to show the following revisions: 1) New Contours; 2) Erosion control details showing double-up in areas where there is less than five (5) feet between the toe of slope and the EC. Also stating no mesh shall be used on ECs- biodegradable/photodegradable only; 3) Granite Bound No Disturb markers demarcating the 25-foot NO Disturb Zone every 25 feet. They must remain in perpetuity. Wording to be approved before fabrication. **Discussion ensued** regarding test pits from 2009 and ground water levels.

Staff asked about buoyancy calculations. Hayes Engineering stated it was not needed if they do not use coffins. The commission felt they had enough information and further tests would not be required. **The hearing was open to members of the public.**

Attorney Benjamin Tymann- legal counsel for the direct abutter at 532 Lowell Street

ATTNY TYMANN: I am with the law firm Tymann, Davis and Duffy in Boston. I represent the direct abutter George Bellow of PK Realty Trust at 532 Lowell Street. I am here to observe, and we have learned about the facts of the proposal for the first time tonight.

Discussion ensued. Attorney Tymann requested the commission wait for William Stansfield (the city's environmental engineer) to review and respond to the Hayes memo that was submitted today. Attorney Keilty chimed in and pressed the commission to close the public hearing tonight.

Discussion ensued. The current monitoring wells have been read recently and the 2009 date is not relevant. Attorney Keilty claimed hardship and requested the meeting is closed for various reasons outside the commission's control. **Further discussion ensued** regarding the trees between the proposed cemetery and the direct abutter at 532 Lowell Street. This area is outside the commission's jurisdiction and will need to be brought up at City Council or the Planning Board meetings. Attorney Tymann asked for a continuance again but the commission felt they could close the public hearing. The water table was observed in September 2020 via the existing monitoring wells. Hayes believes the groundwater will not be an issue with the cemetery.

Discussion ensued regarding the groundwater readings from September 9th, 2020. The commission did not feel it was necessary to wait for the city's environmental engineer to review and respond to the current Hayes Memo. Attorney Keilty stated he would make an effort to reach out to the abutter to discuss any potential issues with the development. Ms. DeINegro will forward the Order of Conditions to Attorney Tymann as soon as it is drafted for his review. He is aware of the appeal period.

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

The commission requested a revised plan to show the following revisions: 1) New Contours as discussed; 2) Erosion control details showing double-up in areas where there is less than five (5) feet between the toe of slope and the EC. Also stating no mesh shall be used on ECs; 3) Granite Bound No Disturb markers demarcating the 25-foot NO Disturb Zone every 25 feet. They must remain in perpetuity. Wording to be approved before fabrication.

Motion to issue a Standard Order of Conditions 1-50 adding the following conditions: **51)** Project Narrative regarding Muslim Burial Process (NO CHEMICALS allowed in body or coffin wood-traditional burials are not allowed under this OoC); **52)** No Plastic meshing is allowed on Erosion Controls (need revised EC Sheet as stated above). This shall also be noted on revised detail sheet-no plastic allowed-biodegradable/photodegradable only); **53)** Unused soil must be disposed of appropriately off site or outside all buffer zones and resource areas including abutting parcels. No soil shall be stored on site in buffer zones-this condition is in perpetuity; **54)** No Disturb Zone is in perpetuity. **Granite markers** shall be installed three (3) feet in the ground and three (3) feet above the ground a minimum of twenty-five (25) feet apart). A detail of the granite posts shall also be included on revised plan/detail sheet (wording to be approved by the commission before they are fabricated). Said granite bound markers shall demarcate the No Disturb Zone every 25 feet and be shown on revised plan and they will remain in perpetuity. The revised plan must be submitted for approval (hardcopy and electronic) before the issuance/release of the OoC as made by Mr. Comak. Seconded by Mr. Lazares. Adopted unanimously.

REQUEST FOR DETERMINATION OF APPLICABILITY

8. A Public Hearing on a Request for Determination of Applicability submitted by William Manuell (Wetlands & Land Management, Inc.) for Kevin Hoyle. The property owner is seeking confirmation from the commission that there are no areas of wetland jurisdiction affecting the site. Specifically, there is a stormwater management basin on the abutting lot. They are seeking a Negative Determination that the detention basin cannot be construed as a wetland. The property is known as 68 Prospect Street, Map 039, Lot 005, Peabody MA.

Present: William Manuell (Wetland Scientist- Wetlands & Land Management, Inc.)

Summary: Mr. Manuell represents a potential buyer. The commission and staff agreed the area was a stormwater detention basin. City staff noted that the basin has not been maintained to date and the O&M must be followed going forward.

The item was open to members of the public. Janis McDonough (8 Emery Street) and Jamie Harrop (12 Emery Street) were both concerned about potential future development on the site and the potential for flooding at their residences. The residents stated people in the neighborhood have experienced flooding. Some abutters have resorted to constructing French drains and other remediation drainage systems to alleviate stormwater flows. Presently the residents maintain their drainage systems and they are currently working and functioning properly. One resident stated that the basin was cut and maintained a few years ago. The date matched with the Certificate of Compliance request in 2016.

The commission and staff agreed the area was a stormwater management facility. The consultant stated that the basin does in fact treat the water from his client's site at 68 Prospect Street. The proposed "use" at 68 Prospect is undecided at this point. The commission agreed it is a stormwater basin and the property is not abutting wetlands. However, any changes that will increase the stormwater flow characteristics from 68 Prospect Street to the said stormwater basin WILL trigger Conservation Approval. The basin has not been maintained to date and the O&M must be followed going forward. The abutters thanked the commission for allowing them the opportunity to speak. The commission asked Ms. DelNegro to follow up with the property owner/manager of the basin to maintain the facility per the O&M Plan. Ms. DelNegro stated she would follow up when her time allows. The commission reiterated any changes to said stormwater basin from either the Essex Apartments (1 Avalon Dr) or 68 Prospect will require a filing with the local commission and MASSDEP to ensure stormwater standards are still being met.

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

Motion to issue a Negative Determination with the following condition regarding any site redevelopment: HOWEVER, any changes that will increase the stormwater flow characteristics from 68 Prospect to said stormwater basin WILL trigger Conservation Approval. Any changes to said stormwater basin from either the Essex Apartments (1 Avalon Dr) or 68 Prospect will require a filing with the local commission and MASSDEP to ensure stormwater standards are still being met. The basin has not been maintained to date and the O&M must be followed going forward as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

ENFORCEMENT ORDER

9. Enforcement Order issued to Daniel Ruiz for the property known as 44 Bartholomew Street, Peabody MA. The alleged violation is bringing multiple truckloads of fill onto the site. Buffer zone and resource area was altered. A valid Order of Conditions has never been issued for said work.

CONTINUED UNTIL SPRING 2021 WHEN VEGETATION HAS GROWN IN - TBD

OTHER

• **MINUTES- June 24, 2020 remotely held**

Motion to accept the June 24, 2020 minutes as made by Mr. Comak. Seconded by Mr. Vivaldi. Adopted unanimously.

• **Adjournment**

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

The meeting adjourned at 10:16 PM

The next meeting will be held via zoom on 10.28.2020.

Respectfully submitted,

Chairman Michael Rizzo