



City of Peabody
Conservation Commission

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

MINUTES

NOVEMBER 14, 2018
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Craig Welton
Travis Wojcik
Stewart Lazares

MEMBERS ABSENT

Melissa Feld, Secretary
Bryan Howcroft

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

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:03 pm

PROPOSED NEXT MEETING DATES- December 12, 2018 AND January 16, 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 1 and 2 were discussed together.

VIOLATION ORDER

1. A 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.

NOTICE OF INTENT

2. A 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.

PRESENT: Crystal Papanickolas (legal counsel)

MR CALLAHAN: We issued a Violation Order (VO) basically to have the property owner bring the site into compliance with the Order of Conditions. Crystal can probably update you.

MS PAPANICKOLAS: I have been in touch with Mr. Karamas. He has been employed to follow through on the Order of Conditions on that site. I spoke to him I believe it was either this week or last week. He basically notified me that he put a phone call in to the gentleman he has retained to set up the haybales. Until that is done he can not proceed with the work. I have been in touch with him and Mr. Mello and Brendan.

MR RIZZO: Do you think work will start next week or something?

MS PAPANICKOLAS: He didn't give me a timeline. He said he was waiting for a phone call back. The day after the site visit I did talk to Brendan, Mr. Mello I left a message at his office. And Mr. Karamas. I spoke with him. I told him I would like him to be here this evening. He didn't tell me whether or not he was coming. But you are also looking for outline and timeline as to when the work is going to be completed. I have been in touch with all three of them to get this ball rolling.

MR CALLAHAN: Crystal did call me the eighth. She did provide me with this update. We have been in communication. She does seem to try to be working on it. It is really Karamas getting out there.

MR RIZZO: Then we should continue this.

MR COMAK: Hold on. Are we going to come to the next meeting and she is going to say, “I called him, and he didn't call me back.” I think somebody needs to be here. The next meeting, I want to know just a timeline. That is all I am looking for. I want a timeline. I want a contract or something that says this is what is going to happen. I don't want to be here in May and she's saying he didn't call me back.

MR CALLAHAN: It is getting late in the construction season. What effort would you like to see completed? Do you want to see a schedule?

MR COMAK: I want to see a schedule.

MS PAPANICKOLAS: I did stress that to him when I spoke to him on the phone. I said if you can't be at tonight's meeting I said they do want to see some sort of outline.

MR COMAK: Crystal he is not the problem here. He is just the contractor. You need to get something from him in writing that says what it is. Is that unreasonable?

MR RIZZO: Well the BMPs need to be put in place. He has to do those before he can start his work. The haybales serve as a way to keep the site protected. If nothing else the haybales need to go in asap. If you can get them in next week? That would be great. This is actually the kind of work that can be done in the winter.

MS PAPANICKOLAS: I did reiterate what you have told me at the site visit. That it would probably be better to get it done sooner than later before it snows and everything else.

MR RIZZO: For this type of work, it is a good time of the year to get it done. When it is cold. Well if there is a lot of snow you can't. Hopefully you are going to be able to speak with him and get a schedule. Get those haybales in place.

MR CALLAHAN: I have not done this for a while. Do you need to make a motion? Basically, I am planning to amend the VO and include these current conditions or whatever you want to call them in the VO. I will send you a revised VO. It will keep track of everything and what has been requested to be done. That way there is a record of it all. You know what is being requested. I will probably send you an amended VO. That includes this additional work. And you want these things done prior to the December meeting?

MR RIZZO: Yes. We want the BMPs in place as soon as possible and a schedule. By the next meeting we want the haybales in place with a schedule. Then how the schedule works around the weather. This is the kind of project that can be done during the winter time.

MR CALLAHAN: I was on the site today. I will say the tenant does keep the lot neat. I didn't see any stockpiling of debris or trash or anything like that. It was kept in order.

Discussion ensued.

Motion to amend the Violation Order as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

The discussion continued for DEP 55-860:

MR CALLAHAN: I drove out to the site today. I issued a letter. We said that we wanted to keep everything outside of the resource area, remove unregistered vehicles, that one truck we pulled out of that back nook that was in the back lot. We made an effort to delineate a no disturb zone on the plan. I sent that letter to the property owner (to Crystal) outlining those conditions that we decided on and considered at the site visit. It looked like, to me, any unregistered vehicles have been moved off site. For the most part things were pulled back to the area that I had drawn on a plan to move any trucks or trailers outside of the no disturb zone. As of today, it looked like they were in compliance with that letter. I wanted to make that known.

MS PAPANICKOLAS: I want to speak on that matter. I did speak with the tenant two or three times over the last several weeks since the site visit. I did urge him to move all that debris and the unregistered vehicle away from the buffer zone or the resource area as you call it. He told me directly over the telephone that he had done that, or he was doing it that morning. He said he would be done by the end of the day. When I drove by it the other day I saw that there was nothing in that back part of the lot. I did speak with Mr. Mello today. As far as the NOI he had explained before that he didn't see any I guess out of bounds of what DEP had approved. From our stance we are basically going to continue letting our tenants operate out of that lot provided

that they stay outside the resource area. One other thing that I would like to add is that Mr. Lobel even though he got DEP's approval he was allowed to go back into that lot after he paid the fine and did the remediation. He chose to leave Peabody because of what has happened with DEP and conservation on that issue. I just want to let you know our current tenants are kind of at about that same point. It is getting to the point that businesses are getting driven out of the city. I am just letting you know that.

MR RIZZO: That is not my business.

MS PAPANICKOLAS: You are affecting our ability to rent.

MR RIZZO: I am not affecting anything. The manner in which you are conducting business on your property is what is affecting it. Not this commission. Let's get that clear.

MS PAPANICKOLAS: Our tenants have rented property. They are staying in the boundaries of what was approved by DEP.

MR RIZZO: That is all we ask.

MS PAPANICKOLAS: Ok I am just letting you know.

MR CALLAHAN: Well the use has not been approved. The tenant does not have a permit to actually operate a business there from what I understand.

CLLR SASLAW: It is illegal right now. They shouldn't even be there.

MS PAPANICKOLAS: Mr. Mello told me that informed me today that the fact that DEP they paid the remediation, we paid the fines, we paid the remediation. They were not informed that they could not go back in there.

CLLR SASLAW: They do not have a Special Permit. Lobel had a Special Permit and they left.

MS PAPANICKOLAS: Mr. Burgos went and pulled a Special Permit (SP). He was told to pull a Special Permit.

CLLR SASLAW: He does not have a SP. That is pending in front of city council right now. For four months.

MS PAPANICKOLAS: He was told to pull the SP and he pulled the SP.

CLLR SASLAW: There is no such thing as "pulling a special permit". You apply for a SP.

MS PAPANICKOLAS: Fine he applied for a SP. City Council will not hear it until this issue with conservation gets resolved.

MR CALLAHAN: That is correct.

CLLR SASLAW: They are operating illegally.

MR RIZZO: The meeting that day we all talked about what we were going to do. Once they decided to stay away from the resource area. How to protect that area beyond that. We talked about putting some barriers of some type. Boulders or something along that perimeter. I thought Chris

Mello was going to prepare a plan that was going to identify those boundaries and the materials used to protect the resource areas. That we we know vehicles can not go any further than those boundaries.

MR CALLAHAN: It sounded like they were going to propose a different surface for the work area? Right now, it is mud and tracked up from the trucks. It sounded like they were going to try and stabilize that work area. Similar to what you did over at JunkHaul. Where you have that stone aggregate. Chris was going to provide us a plan with this new stabilized work area surface, what that material is going to be and as well as the stormwater BMPs that also need to be installed to mitigate any stormwater off the site. I think we are looking for a plan showing the new work area surface, stormwater BMPs and something on the plan that delineates the work area boundaries as well as provides almost doesn't allow any sort of whatever use of the property doesn't encroach into the resource area. Those three things seem to be the big items we are waiting for on a revised plan from Chris Mello.

MR COMAK: I am lost here. Isn't this an NOI?

MR CALLAHAN: You got it. It would have been submitted in September or October package I guess. You have a NOI. There was a plan. It has a DEP file number. They gave us a plan. Basically, we thought the plan lacked significant details. At the site visit we had said go back and revise the plan to include the items that I just mentioned. We do not have that. Chris has not submitted a revised plan. You definitely need a revised plan at this point.

Discussion ensued. The commission wants the property owner to get DEP file no. 55-822 in compliance with the Order of Conditions before they move forward on a vote for the new NOI DEP file no. 55-860. The commission reiterated that they will not entertain a vote on DEP File No. 55-860 until DEP file No. 55-822 is in compliance.

MR COMAK: Junk Haul is still there which is fine. I do not have a problem with that. I am not trying to hurt them from business. The other tenants are still there operating out of a muddy site. From my point of view throw some jersey barriers up and I will be happy. Or boulders. Just because you say that is the line in the middle of the night when he is trying to back in that line isn't going to do anything.

MR CALLAHAN: I agree. There should be something substantial so if a truck hit it at least they would know.

MR RIZZO: We are trying to work with you. We are trying to allow activities to remain on the site in hopes that you were going to accommodate our request and get some of these things taken care of. That is not happening. Tonight, we don't even have a plan in front of us that shows a line with a barrier or something.

MS PAPANICKOLAS: I did speak with Mr. Mello today and I thought he was going to be here tonight. He did tell me that it was his opinion after reviewing everything and what DEP had planned out. He didn't feel anything besides moving the debris and trucks close the resource area he didn't feel anything further needed to be done with that site.

MR RIZZO: He was on the site with us when we were all there last month. He agreed that a plan would be prepared showing the boundary with a method of delineation. Whatever that may be (jersey barriers, guardrail or boulders) so we know that vehicles can not go beyond that point. We don't have an updated or revised plan that we can embrace and say, "ok looks like we have a plan and get that implemented". Then you could take that plan and seek getting a permit to operate on that site. Which I wasn't even aware of. I didn't know that. I would like to open it up to city council here.

CLLR SASLAW: Thank you. Just so we are all on the same page here we support business up there. One Haul Junk Haul has been a great tenant. He would like to expand his operation a bit. At this point I would advise him that there can be nothing that can happen until those two situations previously discussed are rectified. As far as the OB Trucking for the record they are operating illegally right now. There should be nothing there. You talk about removing trucks and unregistered vehicles. There is no special permit. There shouldn't be anything there. I have been asked to basically be patient. That is why I am here tonight. About 6 months ago OB trucking was parking their trucks on Farm Avenue on city property illegally. I would like to see them get in there legally. He put a special permit application in in July or August. We have continued every month. He knew he wasn't going to be ready tonight. His next continuance is until the last meeting of the year December 13. He is going as far as he can go. We are trying to work with him. I can pretty much see the writing on the wall. I don't think it is going to be done by then. We shall see. For the record he is operating there illegally. I am looking the other way. I do not really like it. I do not feel comfortable with it. For the record, it is not that the city doesn't want to work with you folks. I think we have bent over backwards. I am tired of the phone calls. People pay attention. That is a very heavily traveled road.

MR COMAK: Are you telling me that if they don't have the work completed in four weeks that is the end?

CLLR SASLAW: What I am saying is that they have a special permit before us. I think the recommendation from Brendan is to not approve the special permit based on past history of the petitioner. Obviously if he pulls out of there and no revenue is generated that makes someone get the work done quickly. Yes, I am not going to act on or approve and I can only speak for myself not my fellow councillors. I will make a negative recommendation for the special permit. Before we get to that point my recommendation to him would be to rescind the special permit without prejudice. That would be my recommendation if it is not done by December 13. We have vehicles in there and it is muddy. You know the area. Things are not getting done. I don't see how we can approve and continue to let the situation go. We are working as best as we can. It comes to point as a council I have an obligation to my constituents and to the city to say enough is enough. They are operating illegally today, and we are all looking the other way for the record. When aspersions are made that we are not doing anything. You are right I did have a conversation with Mr. Lobel. He had enough. He spent a lot of money. I called him up and he was surprised I called him. I have a feeling I know what goes on when properties are rented up there. I will save those comments for later.

MR WOJCIK: Through the chair what is the special permit for specifically?

CLLR SASLAW: I don't have it in front of me, but I think it is to store trucks to run a trucking operation.

MR RIZZO: It is surprising that after all this time the work still isn't done yet. It isn't even hard work. It is getting your builder over there to do it. So, where does that leave us?

Attorney Jason Panos

ATTNY PANOS: We are here to discuss that matter as well. We are here representing an abutter to the site. (handed commissioners paperwork)

MR RIZZO: You are handing us this the night of the meeting?

ATTNY PANOS: I ask through the chair that you receive the late communication. The matter is going to be continued from what I understand. I apologize for the late communication, but I respectfully request that you receive it for tonight's hearing. If you want us or me to come back at

your continued hearing to answer any follow-on questions. I am happy to do that. I represent the abutter to 25 Farm Avenue. Farm Avenue Two Lots LLC trustee owning 27 R Farm Avenue. I am here with Peter Ogren from Hayes Engineering. He will give a more technical presentation of our concerns. The principal abutter Michael Weiss is also here tonight. Part of the reason why the communications were late received is because we wanted to take enough time and really analyze and make sure there was a basis for us to even be here tonight. We wanted to look at the plans and we wanted to look at the filing. We wanted to make sure that we were not Hatfields and McCoys. At the end of our analysis we have some serious concerns regarding the NOI before you. Particularly regarding the impact of the various intensive uses on 25 Farm Avenue compounded by the contemplated uses under this NOI before you. Which you have noted those uses have started prior to issuance of any Order of Conditions. These uses have created a totality of disturbance which we believe adversely impact the property at 27R Farm Avenue. We believe given the history of the applicant with this commission that you are right to require compliance with the existing violation before you can move forward and issue an Order of Conditions. You may recall that this commission issued an Order of Conditions on 27R Farm Avenue on January 11, 2017. That Order of Conditions was issued pursuant to a comprehensive NOI filing and presentation filing to this commission on December 14, 2016. That Order of Conditions among other things requires installation of erosion controls, replication of wetlands, stormwater mitigation control, ongoing monitoring of replication areas and operation and maintenance of these tasks in perpetuity. Replication and many of these controls have been installed in compliance with that Order at 27 Farm Avenue. It was not an after the fact filing. It was a before the fact filing. We believe that it has been a very long time since things have been done right by the property owners in this area. Until we came along, and we believe that our neighbor should be held to the same standards that were applied to us. Notwithstanding the adverse impacts of this proposal in front of you. As Mr. Ogren will discuss in more detail this NOI is not in compliance with the relevant provisions of the Peabody Wetlands Ordinance or the Wetlands Protection Act. Particularly with regard to stormwater management. No stormwater data is provided with the NOI. Let alone any controls for treatment and mitigation of stormwater off the property and maintenance thereof and none exists today. The applicant's failure to install erosion controls, manage the runoff and flooding on the property the result from the applicant's intense uses of the property. Which have expanded greatly over the last ten (10) years. The proposed expansion before you today is overwhelming the capacity of the existing wetland resource areas at the property and at our property at 27R Farm Avenue and adjacent properties. The applicant's failures result in significant stormwater runoff, flooding and solid materials washing onto the 27R Farm Avenue property from the property that is the subject of your NOI application. These adverse impacts confer upon 27R Farm Avenue property owner as a person of aggrieved status under the Wetlands Protection Act. Such a status as a person aggrieved establishes the basis upon which the 27R Farm Avenue property owner may proceed forward with a request for action to appeal the commission's order if it decide to issue one. Alternatively, we believe the commission, and I believe you are already going down this road, must first require the applicant to completely address the Violation Order relative to DEP File. No. 55-822 prior to moving forward on the NOI. Also prior to moving forward the commission should also require an addition to the plan revisions that you have requested. You should also require the applicant to supply stormwater data with a corresponding plan with installation of erosion control, stormwater mitigation controls, replication if necessary, ongoing monitoring of these tasks and implementation of an Operation and Maintenance Plan for these tasks. This should be the case not only for the portion of the property affected by the NOI but also for the other activities conducted and contemplated there because the totality of these unmitigated disturbances are causing adverse impacts on 27R Farm Avenue. The work and uses contemplated under the NOI are a contributing factor to the significant and negative impacts. Therefore, we caution the commission against issuing any Order of Conditions until these issues are addressed to your satisfaction and in accordance with the Peabody's Wetlands Ordinance and the Wetlands Protection Act.

Peter Orgren, Hayes Engineering

MR OGREN: Basically, we have talked about the two Orders of Conditions (55-860 and 55-822). There are multiple filings on these properties. The applicant not only controls these properties but also contiguous properties in this area as well. It includes this very large site and the work associated with DEP File No. 55-822 the commission has stated a violation of the Order of Conditions for allegedly adding fill, crushed aggregate pad in the location of a proposed stormwater basin. Which also wasn't constructed. As Jason pointed out the work has not been completed under that Order. In 2008 we looked at the aerial topography of the adjoining site that is under the control of this applicant. That is this large site here. There was approximately 11.6 acres of area that was being utilized for creating mulch and that purpose. In that same time period all commercial and industrial properties were required to meet the Massachusetts stormwater standards. If you look at that same area today in 2018 there is 16.9 acres of land that is under disturbance. That is an increase of 5.3 acres that is commercial and industrial use. We cannot find where there was any kind of stormwater controls, stormwater management or filings to cover that work. The runoff from the properties goes into resources that are protected by the city of Peabody Wetlands Protection Ordinance as well as the state's Wetlands Protection Act. There is obvious presence of eroded materials going into the wetlands and limiting drainage capacity as a result of this activity and also activities on other properties that we just discussed. We think that this area needs to be addressed as a whole. We think that our client is being harmed by the overall activities that Jason pointed out. It is a commercial property.

Discussion ensued.

MR COMAK: Through the chair, are you telling me that there has been five point three (5.3) acres additional that have been filled or affected?

MR OGREN: Affected is a good word. I think it is fair to say that it was definitely buffer zone. It is at least something that would be subject to stormwater management after 2008. My client has been complaining about backups and clogged culverts with bone product that has been used up there for some time. That is why we think this needs someone to come in and look at the whole project. As Jason pointed out there is no Operation and Maintenance Plan. There is a culvert here at this entrance way and it backs up in this wetlands area. I am going to show you some slides of that later on. There is no document to point to and say "hey, wait a minute the owner of this property here is obligated under an Order of Conditions to clean the culvert under an O&M Plan." There would be after 2008 if things were filed or properly done.

MR. WOJCIK: Through the chair, who owns the mulch company?

MS PAPANICKOLAS: It is one of our larger tenants.

MR OGREN: JD Raymond is the mulch company. This is an example of how the water backs up on the access drive to 27R Farm Avenue. The water is so high. This is a picture of sediment laden water coming off these piles and running through the woods and going into and actually created this black runoff I believe from the dye in the wood chips. I do not know that for a fact. These are some ways in which our client's property is being harmed by activities either from this application or the related activities that go on in the area. When we came forward we had bioretention areas, we had wetlands mitigation. The DEP even looked into I further and said we needed to make a filing with MEPA and ACE in order to do what we did. We went through the entire process and it cost a lot of money, but it was done correctly. This is one of the bioretention areas here. Here is clean runoff from 27R Farm Avenue and here you can see runoff from the abutter and it is black. It is coming in and leaking into our bioretention area here. We put these haybales here to try and filter out the water. I do not think you can filter out the organic color but it can filter out some of the runoff coming onto the owner's site.

ATTNY PANOS: If I could please add through the chair, the bottom line is that all of this is new. It has been installed within the last year. It is already being compromised. These are real adverse impacts. It cost us hundreds of thousands of dollars to get to this point. We are already starting to see evidence of harm. There is going to come a point where we are going to have an O&M Plan that we have in place that is not going to work anymore. We are going to have to revise it and spend more money to address impacts off site. It is a real concern. We are not here to oppose things. I am a development attorney. Peter represents developers.

MR OGREN: Our client doesn't have any problem with the uses on the site. It is more a matter of making sure that the maintenance is done, and the drainage paths are kept open so his property is not impacted. To summarize Jason submitted a letter that we wrote that goes into more detail in terms of ordinances and stuff that allow you to act. We think the outstanding violations needs to be addressed or considered before any new Order of Conditions can be done. That is in your ordinance section 32-21. The proposed work should be assessed in the context of the property as a whole. The land owner owns and controls under various entities. These things that we talked about. He is in a position that he could address it in its entirety and we think it needs to be. The continued unmitigated expansion of the uses of the subject property and contiguous properties under the affiliated ownership is resulting increased stormwater runoff, diminished stormwater quality to the resource areas and of course across the applicant's property. That is our presentation. We would like you to take it into consideration.

MR RIZZO: My question is how do we get this stuff corrected and managed and maintained properly? I have some reservations that this can happen. At least under the present conditions and how you manage your properties. We are trying to get you folks to do one site that is under an Order of Conditions and put a detention basin in. There is another site you have activities going on that apparently shouldn't even be there. We are trying to work with you to get that done. Now we have this big site that potentially is harming neighbors. For me to say we need to come back with a plan to do that I don't see how this is going to happen. Unless you hire somebody, an engineer, to go out there. It is my opinion that we hire a third-party engineer to look at all your properties. Maybe come up with a plan and you would have to pay for the engineering to do this. Maybe we can come up with a plan that can mitigate and maybe manage some of these activities so the runoff from the piles are going to stay on your site and not migrate onto someone else's property. You would have to be willing to work with us on trying to come up with something which would protect their property and still allow you to conduct business on your property in the confines of the state's statute.

MS PAPANICKOLAS: May I make a comment on that matter? Let me just say that this is the first we have received this from Hayes Engineering and Mr. Panos. As far as their adjoining property that is what I had brought up at the site meeting. When the commission had allowed Mr. Weiss to open up that easement road to the back property. I have photographs of him pumping from a sophisticated system from his wetlands onto our property. I don't disagree that he was allowed to pump the water out but not onto our property. Now he is turning around, and our mulch tenant has been there long before Mr. Weiss bought his adjoining property. Now he is stirring the pot and we didn't even know until tonight what they have been concocting on their side. Our mulch guy has used the concrete blocks to kind of keep the mulch contained on the lot. Beyond that I would have to look further into the matter. This is the first I have heard of this now.

MR WOJCIK: Through the chair, on the mulch topic, I just noticed it from the offramp just the other day. In years past I have been going up and down to Maine every single weekend since I was two. Every time I get off that ramp I could never see it. Now for some reason I can. I am not doubting that they are doing things within the confines of what they are supposed to do but it has definitely expanded over the past few years. I don't know if that has led to some issues. I definitely agree that this entire property needs to be addressed. You said it was one parcel 25 Farm Avenue. This needs to be fixed.

Discussion ensued.

MR OGREN: A number of these issues was brought up in a prior letter we submitted two months ago.

MS PAPANICKOLAS: Well we never got a copy of that from two months ago.

MR OGREN: It was submitted into the record. You were here when it was discussed. I was here as well.

MR RIZZO: I can tell you this, there is a lot of engineering that is going to be necessary to come up with an O&M Plan and a mitigation plan for such a large piece of land. What we have done in the past is hired a third party environmental engineer. They would look at these parcels and make recommendations and provide the proper plans, documents and BMPs so that these adverse impacts to the resource area can be mitigated and eliminated and subsequently managed through a proper O&M Plan. I don't know if we do that through an Enforcement Order? Or are you willing to work with us to help get this thing straightened out, so you can continue operating and allowing to use your land for business. Right now, most of the activities that are happening are not supposed to be here.

MR CALLAHAN: Can I make a comment through the chair. I think the first thing that needs to be done is the commission may need to get a handle on what is going on out there. As well as try to assess if any violations have occurred. Not only regarding the Wetlands Protection Act and Bylaws. I am also curious if there are any sort of issues due to the amount of disturbance in the last eight years (the additional five acres discussed). Are there issues with DPS and any stormwater permits they were supposed to issue? My suggestion would be first try and figure out what has been violated. I don't think there is anyone in the city of Peabody staff wise that has the capacity to gather all that data, get all that information and provide you with a report of any sort of potential violations and possibly make any recommendations. I don't think there is anyone on city staff that could handle that. Once you understand the situation out there then you can approach the property owner. This is the information we have. This is what we know. These are the things that need to be addressed. At that point then you know what this Enforcement Order (EO) is going to say and you have legs you can stand on with that EO. This is just my opinion. It is just a suggestion. I think you may need to talk to the city solicitor to find out if this is the right approach.

MR RIZZO: We need access to the property. We need to be able to go there and see what activities are taking place. Where the boundaries are near the activities.

MR CALLAHAN: For the commission to take this on you definitely need to go outside of the city.

Discussion ensued.

MR RIZZO: All this gets solved when you have a plan in front of you. A plan with data. Topo, detail, survey, boundaries, wetlands. You probably have information for your client. Is there a way to collectively put something together so we can have a plan? A physical plan where we can see the boundaries, property lines, activities, resource areas. That way we can stand back and look at it and digest it. That is a lot of money to go out and survey all these acres of land. I am not paying for that.

MR COMAK: We can issue an Enforcement Order saying Cease and Desist until we get it squared away. I don't really want to do that.

Discussion ensued.

MR WOJCIK: Can we have this come up sooner than the next meeting? That seems like a long time.

MR CALLAHAN: Thanksgiving is next week. I am just being realistic.

Discussion ensued. The commission was concerned with snowfall.

MR CALLAHAN: I don't think the intention is to shut down the operation. That is not anyone's intention.

Discussion ensued.

MR COMAK: Right now, you are telling us there is a culvert that is blocked? Right?

MR OGREN: We can certainly take the commission to those spots. I don't know if wetlands were filled but there is certainly a lot of buffer zone activity.

Discussion ensued. The commission discussed MS4 permits. At this point it is uncertain if they have a permit from DPS and the state to conduct said businesses on site without proper stormwater controls.

MR RIZZO: This is a much bigger picture than we painted earlier tonight. I don't want to lose sight of the other two small sites. I do expect that you are going to get us information and a plan about at least mitigating and protecting the resource area on the site where the vehicles and all that stuff was. If I could just speak about that for a minute. In addition to preparing a site plan that showed boundary limits where activities could take place I also said I wanted straw bales along the resource area. I have also suggested that a swale be constructed. That way any runoff activity on the site would be retained inside that swale. Which would be on this side of the erosion controls. We talked about those three things. I would expect that you would provide us a plan that would show those three things on that site. We can at least say beginning with the straw-bales these next two steps, the boundaries, the bordering materials and a swale could be constructed to mitigate any further impact or adverse impact to abutting properties. With regard to the big picture we do need to move forward with getting that accomplished. Certainly, we do not want impacts to abutters as a result of activities on other sites. It sounds like everyone in this room is willing to work with each other? We need to find a way to get that accomplished and keep it civil. What do you think about that? Most of the land we are talking about is yours.

MS PAPANICKOLAS: At this point I will have to reserve any further comments. I have to go back to my father and my aunt. They are the older authorities on this parcel.

Discussion ensued.

MR RIZZO: They need to delineate on the plan and construct a barrier of some type. Whether it is boulders or jersey barriers so we know vehicles can't get any closer to that resource area than those obstructions. Behind those obstructions there would be straw-bales and a swale, so any runoff could at least be maybe retained and recharged on that site. We don't want it just running off into the nearby wetlands.

Discussion ensued. Staff will revise the Violation Order to include a list of action items. Discussion ensued regarding the possible blocked culvert on 25 Farm Avenue. There will be a site visit on 27R Farm Avenue on November 28 at 3:30.

Motion to have the Acting Agent contact the city solicitor regarding all items discussed this evening and continuing the item to the next hearing as made by Mr. Wojcik. Seconded by Mr. Welton. 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.

Present: Attorney John R. Keilty (legal counsel), Peter Ogren (Hayes Engineering) and Albert Ellis (property owner)

Summary: The commission conducted a site visit prior to the meeting. Test pits and soil borings have already been completed in the presence of the city engineer. The city is hiring a third-party peer review. The plans may change depending on the peer review.

MR OGREN: We would like to keep the item open so that when we finally get close with public services and community development we can come back here and close here.

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

CERTIFICATE OF COMPLIANCE

4. A request for a FULL Certificate of Compliance made by Dennis Bonaiuto on DEP file No. 55-171. The property is known as 22 Emily Lane (Lot 12 on original subdivision plan for Goodale Farms II), Map 11, Lot 91, Peabody MA.

Motion to issue a partial/full Certificate of Compliance for Lot 12 (aka 22 Emily Lane) checking off the invalid box and partial/full only for said lot as made by Mr. Welton. Seconded by Mr. Wojcik. Adopted unanimously.

5. A 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. Welton. Seconded by Mr. Wojcik. Adopted unanimously.

EXTENSION REQUEST

6. A Request for an Extension Permit on DEP File No. 55-797. The request is being made by Douglas White (property owner). The project is the redevelopment of the two houses located at 15 Elginwood Road. The Order expires on 2/5/2019. The applicant is asking for a one-year extension.

Motion to extend one year until 2/5/2020 as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

DISCUSSION ITEM

7. AMENDMENT: 47 Tremont Street update on amendment request from Attorney Jack Keilty.

No Discussion took place. The item will remain on the agenda for a future conversation.

APPROVAL OF MINUTES

8. MINUTES- September 12, 2018 and October 10, 2018

Motion to approve as made by Mr. Comak. Seconded by Mr. Welton. Adopted unanimously.

SUBCOMMITTEE REPORTS

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

OTHER

• **Any other matter presented to the commission at this time:**

Digital data transmission: The commission discussed moving forward in 2019 trying to reduce the amount of paper consumption from applicants. All commissioners thought it was a good idea going forward. Each commissioner will email conservation staff separately stating their ideas etc. for the transition from paper to electronic packages. Commissioner Welton felt that if each commissioner had a Chromebook/tablet supplied to them from the city it would make the transition easier. Some commissioners did not feel that using their personal computer for all documents would be a good idea for various reasons. To be discussed at a later date.

Motion to further explore reducing the commission's carbon footprint by slowly making the transition for some documents to be distributed electronically instead of via large packages presently mailed via US Postal Service. In order to reduce mailing expenses, the commission so moves to explore the use of electronic digital data as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

BIG Y detention basin maintenance: A representative for the property owner will attend the December meeting to discuss the maintenance of the detention basin.

9. Adjournment

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

The meeting adjourned at 9:45 pm.

Respectfully submitted-

Chairman Michael Rizzo