



City of Peabody
Conservation Commission

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

MINUTES

DECEMBER 14, 2011

PEABODY CITY HALL
24 LOWELL STREET, LOWER LEVEL CONFERENCE ROOM

MEMBERS PRESENT

Chairman Francis Lee
Jarrod Hochman
Joel Whitman
Secretary Jared Yagjian
Bruce Comak

MEMBERS ABSENT

Charles Denny
Vice Chairman Michael Rizzo
Alan Klapman

Also Present: Lucia DelNegro, Conservation Agent

CHAIRMAN LEE CALLED THE MEETING TO ORDER at 7:06 pm

NEXT MEETING- January 11, 2012 AND February 8, 2012
Lower Level Conference Room - City Hall

CERTIFICATE OF COMPLIANCE

1. A Continued Request for a Full Certificate of Compliance made by Hayes Engineering, Inc. for Brooksby Village Inc. The DEP file No. is 55-738 and the property address is Brooksby Village Drive, Map 27, Lot 005X, Peabody MA.

Summary: Chairman Lee recused himself. Mr. Yagjian was “Acting” Chairman in the absence of Vice Chairman Rizzo. Stan Yeakel was present to represent Brooksby Village.

Motion to issue a full Certificate of Compliance subject to staff verifying that debris was removed as noted on a site visit as made by Mr. Hochman. Seconded by Mr. Whitman. (The vote passed with four votes Chairman Lee recusing himself.)

EXTENSION

NONE

CORRESPONDENCE- APPOINTMENT

NONE

REQUEST FOR DETERMINATION (RDA)

NONE

NOTICE OF INTENT (NOI)

2. A continued Public Hearing on a Notice of Intent by Fraggie Rock Environmental (Damon Burt), 38 Garland Road, Stafford NH for Bosun’s Marine, 100 Falmouth Road, Mashpee MA. The proposed work consists of re-grading a parking lot for the use of boat storage and sales to an existing facility to allow for an improved use. The property is known as 205 Newbury Street, Map 35, Lot 33/33B, Peabody MA.

Summary: The following were present to discuss the application: Steven Chase (Bosun’s Marine), Timothy Leedham (Trustee/Owner) and Damon Burt (Fraggle Rock Environmental). Bosun’s Marine is an existing facility on Route 1 Northbound that sells boats. There are currently two separate entrances off Route 1 onto the site. One enters into a small parking lot in front of the building and the other is a maintenance entrance/exit. Discussion ensued about the entrances/exits off of Route 1 being very unsafe under current conditions. A large portion of the proposed work is to remedy this situation. Most of this work is outside conservation jurisdiction.

MR. BURT: Right now there is maintenance access through here because of a steep slope. They cannot physically drive this section. You really have to go out on Route 1. Most of the upgrades are related to the access. Currently there is a bunch of pavement in this area and they are proposing to rip up ¾ of an acre of the pavement and it is pretty bumpy. They will then place gravel. It is basically stripping a lot of that and then allowing access to use the site better. They will be able to get equipment around and do maintenance. We will be re-grading to allow access in here. There will be a roadway.

Discussion ensued. The new entrance will improve the safety of the parking lot as well as entering and exiting on Route 1 northbound. The project also proposes a retaining wall and a boat wash station.

Discussion ensued. The commission requested the following from the applicant:

- 1- A revised detail plan of the retaining wall near the billboard;
- 2- Stormwater Calculations and a Stormwater Checklist;
- 3- Operation & Maintenance Plan (O&M);
- 4- Long Term Pollution Prevention Plan (LTPP);

Staff should review and approve all items. Discussion ensued regarding what the commission would like to see in the O&M as well as the LTPP. There were no comments from the public. Discussion ensued.

Motion to close the public hearing made by Mr. Whitman. Seconded by Mr. Yagjian. Adopted unanimously.

Motion to issue a standard Order of Conditions 1-47 adding condition 48) there shall be no stockpiling of asphalt or any other fill on site. All asphalt shall be live loaded and a bill of lading MUST be submitted to commission staff. Also adding the stipulation that the following items must be submitted and approved by staff as well as sited in the OoC (if applicable)-

- 1- A revised detail plan of the retaining wall near the billboard;
- 2- Stormwater Calculations and Stormwater Checklist;
- 3- Operation & Maintenance Plan (O&M);
- 4- Long Term Pollution Prevention Plan (LTPP);

Once all items are received and approved staff will release the Order of Conditions as made by Mr. Hochman. Seconded by Mr. Yagjian. Adopted unanimously.

The motion was made contingent upon the submittal and approval of the above referenced requested documents.

3. A continued (re-advertised) Public Hearing on a Notice of Intent for 60 Pulaski Street LLC by Hayes Engineering, Inc. 603 Salem Street, Wakefield MA. The applicant proposes to construct a parking lot in the riverfront for bus storage. The property is known as 60 Pulaski Street, Map 53, Lot 85, Peabody MA.

Summary: Attorney John R. Keilty was present but previously requested a continuance of the public hearing in writing. It was brought to his attention prior to the hearing that neighbors would be present to speak at the hearing. The reason Attorney Keilty requested a continuance was because the applicant/owner of the property had hired Dr. Rosen. Dr. Rosen is a Coastal Geologist from Northeastern University. He was hired to assist the consultant with the delineation of Waters River. At previous meetings there was confusion as to where the riverfront was on the property. Dr. Rosen was hired for this reason. No documentation was presented at the hearing but there was speculation as to what his report would state. **Discussion ensued.** The item was open to the public. The commission respectfully requested that only new information be presented.

Kathy Wells, 22 Westview Circle

MS. WELLS: We feel that this has been continued way too long without the information forthcoming. It has been continued since April 13th.

MR. LEE: You do not need to go through all that. We are trying to be fair. You heard his position that he is going to come in with all the required information. He hasn't seen what his own consultant is going to come up with yet. It is going to be here for the next meeting.

MS. WELLS: I do have a question. His consultant was out on the property on November 4th. Now it is December 14th.

MR. LEE: I know it is very important to you and all the neighbors. The applicant has his rights. They are trying to put together a technical complex case that justifies their position. They may or may not succeed. We can only answer that question after the fact.

Discussion ensued. Ms. Wells referred to Peabody's Local Wetlands and Rivers Protection Regulations Ordinance Chapter 32 section 22. This section states that the commission can deny the project if requested information is not submitted in a timely manner. The neighborhood does not feel that the requested information has been submitted in a timely manner. There was also discussion regarding a letter issued from the Health Department. Ms. Wells stated three questions were asked and only the first question was responded to. Ms. Wells reminded the commission that this item has been on the docket for at least a year. John Serman of 53 Pulaski Street commented on what areas he believes is riverfront. He also speculated about parts of the property being illegally filled in years prior. The commission reminded him that is why Dr. Rosen was hired. Ms. DelNegro requested the delineation be submitted to her as soon as possible.

MS DELNEGRO: My fear is that we are going to get snow on the ground. Once snow is on the ground I am not going to be able to verify anything until April. I would like to not only have it on paper; I am assuming we are going to get some sort of wetland report with the delineation. If there is snow on the ground I will not recommend that you approve the plan even if he is a professor at BU (cut off).

ATTY KEILTY: We do not expect that there is going to be a different delineation with respect to wetlands. We do think and that is what I was trying to express is where we had a discussion at one of the last meetings. That area on the left is not river. Our consultant is saying it is. So that is going to move your jurisdictional line well into the property. We will stake it but that is almost an academic issue rather than a flora and fauna issue. We are not changing that.

MS DELNEGRO: Is he going to flag? I am assuming he is going to put flags down and then someone will put the flags on paper.

ATTY KEILTY: With respect to the river they are going to be in the water. I do not think we are on the same page.

Discussion ensued.

MS DELNEGRO: You should flag the mean annual high water line. The bank should be flagged. Those are the flags that I would want to check out and make sure they are there. And then make sure that it is two hundred feet from the flags.

Discussion ensued.

Motion to continue as made by Mr. Mr. Yagjian. Seconded by Mr. Whitman. Adopted unanimously.

ORDER OF CONDITIONS (OoC)

4. A continued public hearing on an Amendment to an Order of Conditions (DEP file No. 55-670) by John R. Keilty Esquire for Gilbert Aleixo-Filho, Trustee of 18 Carell Road Nominee Trust. The applicant is asking for an amendment to increase the size of the approved dwelling, add a deck, a two garages and a swimming pool. The property is known as 18 Carell Road, Map 57, Lot 72 & 74 (portion), Peabody MA.

Motion to continue as made by Mr. Mr. Yagjian. Seconded by Mr. Whitman. Adopted unanimously.

5. A continued public hearing on an Amendment to an Order of Conditions (DEP file No. 55-721) by John R. Keilty Esquire for Lowell Street CVS Peabody LLC. The applicant is asking for an amendment to change the following: building footprint, parking lot configuration, location of proposed bioretention cell, construction of a closed box culvert in lieu of previous designs and reconfiguring the dumpster location. The property is known as 532 Lowell Street, Map 35, Lot 28 and 27 (portion), Peabody MA.

Summary: Legal counsel requested that the item be withdrawn without prejudice.

Motion to withdraw the request without prejudice as made by Mr. Hochman. Seconded by Mr. Whitman. Adopted unanimously.

ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION (ANRAD)

NONE

EMERGENCY CERTIFICATION (EC)

NONE

ENFORCEMENT ORDER (EO)

ITEMS 7, 8, 9, 10, 11, 12 AND 13 TAKEN OUT OF ORDER.

7. A continued Enforcement Order on DEP file No. 55-742 for the property known as 18-20 Pleasant Street, Peabody MA. The applicant is not complying with conditions as cited in the Order of conditions of file 55-742.

Motion to continue as made by Mr. Yagjian. Seconded by Mr. Whitman. Adopted unanimously.

8. A continued hearing on an Enforcement Order issued to Arthur Yiakas. The property is known as 181 Lynnfield Street, Map 100, lot 143, Peabody MA. A concrete block retaining wall along Goldthwaite Brook is in disrepair. The owner's presence is requested at the hearing to address the issue and decide on a resolution.

Motion to continue as made by Mr. Yagjian. Seconded by Mr. Whitman. Adopted unanimously.

9. A continued hearing on an Enforcement Order issued to Michael Chiaradonna. The property is known as 119 Foster Street Rear, Building 10, Map 04, lot 007B, Peabody MA. The illegal activity is storing pallets of Wet Blue Chrome Scraps (old leather hides). The leather hides are also piled on the abutting property. The property is bounded to the north by a channellized section of Goldthwaite Brook. This site is located entirely within the Riverfront (RF) associated with Goldthwaite Brook. The wet blue scraps are being stored in RF without a valid Order of Conditions.

Motion to continue as made by Mr. Yagjian. Seconded by Mr. Whitman. Adopted unanimously.

10. A Hearing on an Enforcement Order issued to 49R Lowell Street LLC and M. Dullea Landscaping. The property is known as 49R Lowell Street, Map 85, lot 244A, Peabody MA. The illegal activity was the dismantling of air conditioners approximately eighty feet from Proctor Brook.

Summary: Ms. DelNegro stated she received an email from Sharon Cameron (Director of Health Department). Ms DelNegro read the letter aloud: "Sorry Lucia, I thought we had gotten back to you on this. We had issued two orders, one to the landscaper and one to the property owner. I believe the court dismissed the charges against the property owner, and then closed the case on the landscaper because he paid a fine. Bill, Please confirm the details. The short story is that we have closed our case on this. We had placed numerous calls to DEP after the incident inquiring about any cleanup requirements and they never got back to us- I got the sense from talking with them they were not concerned about remediation. Thanks." Based on the email staff recommended a withdrawal of the EO.

Motion to withdraw the Enforcement Order as made by Mr. Whitman. Seconded by Mr. Yagjian. Adopted unanimously.

12. Enforcement Order issued to Lucia Barnes of 36 Aborn Street, Peabody MA. The alleged illegal activity was work within riverfront of Strongwater Brook without obtaining the proper permit.

Summary: Ms. DelNegro stated she received a few calls about work within the riverfront area of Strongwater Brook located on Lucia Barnes's property. She conducted a site visit on December 1, 2011 at approximately 4:30 pm. She viewed the property from an adjacent parcel. It was difficult to determine if there were any illegal activities on said lot because it was dark outside. Staff finally received permission from the homeowner to conduct a site visit. After the site visit, it was concluded that there was not a violation on the property. There was emergency work done on an existing bridge. The bridge was damaged after the flooding in October. The homeowner should have called the commission to discuss emergency work on the property. Staff recommended a withdrawal of the EO. There were no members of the public that wished to speak.

Motion to withdraw the Enforcement Order subject to the condition that Ms. Barnes must contact commission staff prior to any new work on said site as made by Mr. Whitman. Seconded by Mr. Yagjian. Adopted unanimously.

13. An Enforcement Order issued to RTW Realty (Fran and Rick Tower) of Middleton MA. The property is known as 119 Rear Foster Street, Building 13, Peabody MA. A large section of a retaining wall associated with Goldthwaite Brook is in severe disrepair as well as a portion of the walkway to the building has eroded into the resource area. The impaired retaining wall poses a risk to public safety and could impede flood waters.

Summary: Rick Tower was present. The property owner has retained the services of J. Karamas Co. Mr. Karamas submitted a construction sequence proposal. Ms. DeINegro stated she needed time to review the proposal. The commission agreed to sign an Amended EO. Ms. DeINegro will add conditions at her discretion. ***FLIP TAPE*** Discussion ensued.

Motion to ratify the original EO as made by Mr. Whitman. Seconded by Mr. Comak. Adopted unanimously.

Motion to Amend the EO at Ms. DeINegro's discretion as made by Mr. Whitman. Seconded by Mr. Comak. Adopted unanimously.

11. Enforcement Order issued to Lamb and Vila Pino both of 501 Lowell Street, Peabody MA. The alleged illegal activity is work within the 100 foot buffer zone to a certified vernal pool.

CONTINUED UNTIL APRIL 2012. This item was continued at a previous hearing.

FINDING OF NON SIGNIFICANCE

- NONE

CITY COUNCIL- Special Permits- Motions

- NONE

VIOLATION ORDER (VO)

- NONE

SUBCOMMITTEE REPORTS

- Land Acquisition Committee- Chairman Rizzo
- Flood Mitigation- Chairman Whitman

APPROVAL OF MINUTES

- Minutes- 10/12/2011 and 11/9/2011

Motion to approve the 10/12/2011 minutes as made by Mr.Hochman. Seconded by Mr. Yagjian. Adopted unanimously.

Motion to approve the 11/9/2011 minutes as made by Mr. Yagjian. Seconded by Mr. Comak. Adopted unanimously.

ENFORCEMENT ORDERS (EO) CONTINUED

6. A continued Enforcement Order issued to Spinelli's LLC for the property known as 10 Newbury Street, Map 88, lot 1, Peabody MA. The EO work is mandated under Order of Conditions file No. 55-757. The EO work must be complete and approved by staff before any approved work can start under the current OoC.

Summary: Bill Manuel from Wetlands and Land Management was present to discuss the EO. Attorney Keilty is legal counsel for the violator.

MR MANUEL: There was an area that was targeted for cleanup near the back corner of the parking lot. It was apparently a load of recent material that has been dumped in there. So that was removed initially. Lucia and I took a look at it. Really that entire slope from the back corner of the parking lot. If you have been out there you can see where historically the parking lot juts out. That whole slope from where the parking lot juts out to the back corner there is a lot of junk in there. So we had the guys go back in and pick some more bituminous off the surface. There was a sign post and a metal chair. We pulled that out of there as well. We went ahead and installed a dozen shrubs to naturalize the area. Lucia and I looked at it today. I think she'll

agree that it looked better than it has before we started all this. There are some piles of debris that are still there. I should point out that those piles have been there quite a long time. They actually have small shrubs and vegetation growing out of them so they are certainly not recent. Be that as it may there are piles of old fill there. The slope is very steep going down to the water supply. In order to remove that stuff it is going to be a project. It is not something that you would want to undertake this time of year because you would never get it stabilized. There would be an un-stabilized slope directly above the water supply. Frankly speaking it may be something that is not pretty but it has been there a long time. It might be something that commission says I think we are opening up a can of worms trying to get that out of there. Then you would have a big scar on the slope above the water supply. With respect to the recent work, the shrubs are in and the area with all its leaf drop looks fairly naturalized. As far as we can go this fall I am satisfied.

Discussion ensued.

MR MANUEL: It kind of looks like when that parking lot was originally constructed or when it got bumped out that is what this appears to be a remnant of. It is certainly nothing recent. It is more or less stabilized. I said there were small shrubs growing out of some of it. When we saw it in the growing season it actually had knotweed growing out of it. All that stuff dies back now so it kind of looks a little ugly. In the growing season it is well vegetated.

MR LEE: Let me ask you your opinion as to whether not leaving it as is, which is what I think you are recommending, presents any risk to the water supply.

MR MANUEL: Based on what I see there are chunks of concrete. That is inert. There is some bituminous that is still in there. Some larger pieces. That is no different from what is on the parking lot. Unless there is something in the dirt I do not know. The vegetation is not distressed. It does not lead me to believe there is anything that is a detriment to the water supply.

Discussion ensued about the slopes stability.

MS DELNEGRO: I think it is stable right now. It is just not pretty. I hate to admit it but there might be a slight Pandora's Box once you start pulling it out. I do not want these chunks of asphalt next to our water supply but they do seem to be a part of the slope. I would definitely agree with Bill that we probably do not want to start working on it right now. I would not suggest closing the Enforcement Order just yet. Maybe we can let them start their project. He did plant some red twig dogwoods and low bush blueberry on the slope around the asphalt chunks.

MR MANUEL: As I mentioned in my letter we tried to naturalize the area.

MR HOCHMAN: So you are commending him but want to keep the Enforcement Order open?

MS DELNEGRO: I would for right now and maybe revisit this in April and see what it looks like. We could allow them to start their project. I think they complied enough with the Enforcement Order to start the two additions. This was mandated on their Order of Conditions. You did give them an Order of Conditions. In the Order, we mandated that the Enforcement Order work be complied with before. I would recommend keeping it open. Of course, they are going to want their Certificate of Compliance anyways so this will be revisited when they want their occupancy permit.

Discussion ensued. Ms. DelNegro will speak with the Water Department regarding the hazards of concrete and asphalt near our drinking water supply.

Motion to continue as made by Mr. Whitman. Seconded by Mr. Yagjian. (The motion passed 4-0 with Mr. Hochman voting present.)

OTHER

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

-Brooksby Village request for permission to perform work on Stormwater Facilities located on the site. The property is known as Brooksby Village Drive, Map 027 (19, 27, 28, 36 & 37), Lot 5X, Peabody MA.

Summary: Chairman Lee recused himself from the discussion. In Vice Chairman Rizzo's absence Mr. Yagjian was Acting Chairman. The following attended as representatives of Brooksby Village Inc.: Stan Yeakel, Brooksby Village Representative, Richard Baummer, Nobis Engineering, Inc. and David Cloutier

also of Nobis Engineering Inc. The stormwater facilities located at Brooksby Village were damaged during the flooding events in October 2011. Nobis Engineering submitted plans to mitigate the problem. They also submitted pictures to show the damage. The commission requested that Ms. DeINegro work with Nobis and Brooksby to have the issues resolved and the stormwater facility working properly again.

Motion to have Ms. DeINegro review the plans and work with Nobis Engineering and Brooksby Village to remedy the problems with the stormwater system located at Brooksby Village Drive as made by Mr. Whitman. Seconded by Mr. Comak. (The vote passed with four votes Chairman Lee recusing himself.)

. **Adjournment**

Motion to adjourn as made by Mr. Whitman. Seconded by Mr. Comak. Adopted unanimously. The meeting adjourned at 8:41 pm.

Respectfully submitted-

Francis Lee, Chairman