



City of Peabody Conservation Commission

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

MINUTES

DECEMBER 8, 2021

Via Zoom ID 833 3021 7247

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 *as extended on June 15, 2021 with the Governor signing of Senate Bill # 2475 Suspending certain provisions of the Open Meeting Law*, allowing public bodies greater flexibility in utilizing technology in the conduct of meetings under the Open Meeting Law, this meeting of the Peabody Conservation Commission was conducted via remote participation to the greatest extent possible.

MEMBERS PRESENT

Chairman Stewart Lazares
Vice Chairman Michael Rizzo
Arthur Athas
Alt. Amanda Green
Bruce Comak (arrived 7 minutes into hearing)
Sec. Michael Vivaldi (arrived 12 minutes into hearing)

MEMBERS ABSENT

Melissa Cantin
Travis Wojcik
Alt. RitaMarie Cavicchio

Also Present: Andrew Levin, Senior Planner

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

In the absence of 2 commissioners Alternate Amanda Green had voting rights.

► **Stewart Lazares- updates on CPC filing Peabody Lakes & Ponds and discussion regarding new chemicals in various recreational ponds throughout the city.**

The chairman explained a new NOI for hydro-raking and mechanical harvesting will appear before the commission in the upcoming months. There was no discussion about adding new chemicals to the current chemical applications under DEP Files 55-863 and 55-847.

REQUEST FOR DETERMINATION OF APPLICABILITY

1. A continued Public Hearing on a Request for Determination of Applicability submitted by Anthony Capachietti (Hayes Engineering) for Mills58 II LLC c/o Edward Greeley (applicant/owner). The proposed work is the construction of a parking area and stormwater infiltration system for rooftop runoff within 100 feet of an isolated vegetated wetland under local jurisdiction. The property is known as 58 Pulaski Street, Map 53, Lot 87, Peabody MA.

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously. (4-0)

2. A continued Public Hearing on a Request for Determination of Applicability submitted by Greg Hochmuth (Williams & Sparages) for JDT Group LLC. The applicant is seeking confirmation of wetland boundaries, sensitive areas. This application is for verification of wetland boundaries confirmation only and not for the redevelopment of said lot. The property is known 0 Newbury Street, Map 088, Lot 007, Peabody MA.

Motion to continue as made Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously. (4-0)

NOTICES OF INTENT

3. A continued Public Hearing on a Notice of Intent submitted by VHB for CV 13 Corwin LLC c/o Cargo Ventures (Kevin Donahoe). The property owner is Stahl USA Inc. The applicant proposes development of a commercial and industrial use property. The property is known as 13 Corwin Street, Map 92, Lot 006, Peabody MA.

Present: Karen Staffier (VHB), Cargo Ventures (Kevin Donahoe), John R. Keilty, Esquire (legal counsel)

PLANS: unknown

Summary: Chairman Lazares read William Paulitz's (city engineer) comments aloud for the record. Attorney Keilty gave a brief overview of the timeline thus far regarding the application and the peer review from various departments. The applicant and their legal counsel felt that the commission could vote tonight. **Discussion ensued** regarding stormwater and climate change. Karen Staffier from VHB went over each comment as requested by the chairman. **Discussion ensued** regarding stormwater standards, future soil testing, O&M practices, illicit discharge statement and LUHPPL status. There was confusion as to which plans were being discussed. The commission had access to plans with a November date. However revised plans were emailed the day of the hearing with new revisions to only city hall employees and not commission members. Chairman Lazares and Commissioner Athas felt that since revised plans were submitted on the day of the hearing and were not circulated or shared on the OneDrive the item should be continued. Vice Chairman Rizzo stated he received the revised plans dated December 8 and had a chance to review them. **Discussion ensued** regarding the amount of parking spaces. Vice Chairman Rizzo was hoping some impervious could be removed as stated in the World Tech memorandum. Further **discussion ensued** regarding peer review comments.

ATTY KEILTY: I think I can speak to a few of those issues. We can easily provide the site distances at the intersection from Corwin to Lynnfield Street. There has been some discussion about altering the radius so that any kind of tractor trailer would be able to make a better effort to stay in their own lane. That is a big factor with respect to neighbors. The existing condition out there in respect to Corwin Street is that it is paved wall to wall. A radius change would probably require us to come to some agreement with the landowner on the left and right side who happens to be the same landowner (the owner of Stonewood Grille). We are happy to engage in discussions about making an improvement there. The bypass road is a discussion which we hope to bring to a legislative level to the Community Development and Mayor's office. Wherein we speak to the issue of trying to create and access road by purchasing the railroad bed that runs perpendicular to Corwin Street. When you are traveling up Corwin to get beyond Stahl you pass over an unused section of railroad. That land was suggested by one of the City Councillors (Councillor Welton) that it may be for sale. One of the things that we have been providing to the Planning Board and presumably eventually when we get to the City Council for Special Permit that we would be committing to is this monetary amount that has been referenced and the adequacy of that amount. What that really is intended to promote and advance the study that would need to be done to determine whether or not pursuing purchase of that land by city with state funds. Which we all agree would be a great idea from the standpoint of traffic impact. It would mean that those other two or three users behind would then be able to get onto this road instead of off Lynnfield Street. If that was to ever to come to fruition, which we are hopeful it does because it serves us very well, that would require a new Order of Conditions to build out that road. As would, in my opinion, we are close enough to Craig's Pond if we changed the entry radius, we would also file with the ConComm in respect to an Order of Conditions there.

Discussion ensued. If the Planning Board does not require the parking the impervious area will shrink. Attorney Keilty finds this outcome very unlikely.

ATTY KEILTY: The parking lot would get smaller, but I find that to be extremely unlikely given the fact that right now that area that we are going to propose a substantial amount of parking is compromised of the tank farm that are needing to be addressed and removed. Those areas need to be essentially capped in accordance with previously issued AULs. I find that there would be a very limited likelihood that our parking lot gets any smaller. I suggest that the turning radius change, or development of the roadway would require independent and separate Orders of Conditions.

MR RIZZO: There are some concerns regarding traffic that we probably wouldn't be comfortable closing the public hearing tonight. I think you've come a long way and you satisfied about everything. There could be the need to have more potential impacts to resource areas. Certainly, for the intersection.

ATTY KEILTY: That is not what we filed. We have not filed to change that intersection. If we are compelled to do so we will need to make an arrangement with the owner of the property on both sides and simultaneously file with the commission in order to make those changes because of their proximity to Craig's Pond.

MR LAZARES: Can I ask a question about the parking area for cars? Can you guys make that pervious asphalt instead of impervious?

ATTY KEILTY: We had that discussion on site with several City Councillors. I think that the durability was an issue but Karen if you want to address that.

MS STAFFIER: Durability can be an issue but, in this case, we have the flood storage system underneath the parking lot. It is fairly shallow below the surface because it has to be provided at a

certain elevation in order to provide the flood storage at the correct elevation. Normally when you do permeable pavement there is a fairly substantial stone reservoir that occurs below for drainage. It is also done more typically on flatter parking lots than this. I guess that is my way of saying it is not an ideal candidate, but we are able to do the recharge system which provides a lot of the benefit that you do get with permeable pavement.

The item was **open** to members of the public to speak for or against the project. No one was at the public hearing that wished to voice their opinion for or against said project.

Motion to continue the hearing until after the Planning Board has made their decision as made by Ms. Green. Seconded by Mr. Athas. (Adopted unanimously 6-0).

Discussion ensued regarding upcoming meeting dates for Planning Board, ConComm and City Council.

ATTY KEILTY: I think the commission should be aware that we do need to apply for a special permit at the City Council. Their Regulation 17 suggests I have to be completed with the other boards before I can come there. We would respectfully request that an Order be issued this evening if possible, inasmuch as the ten-day appeal period for our Order when we get to the Planning Board we will then wrap things up with their meeting on the sixth. It would be my expectation that we could then have our Special Permit application at least accepted by the council. The meetings from the council will be all the way out until February. We are very hopeful that the board would consider issuing an Order of Conditions inasmuch as the Planning Board not to keep judging from their comments. There is no change to the physical characteristics of the facility that we are proposing as it has been proposed and modified by all of the comments that we received to date. I don't think that there is anything that the Planning Board; they wouldn't move the building. I think the only issue that you might share with the Planning Board is our traffic pattern as we intersect.

Discussion ensued regarding traffic pattern. Mr. Rizzo brought up other items he was concerned with. Even though the item was continued a discussion continued regarding other items. Mr. Rizzo felt that the commission could vote after all and decided he would like to close the hearing instead of a continuance.

MR ATHAS: I think we have the advantage of continuing the item and having more conversations with our Conservation Agent. She could have conversations with Will to clarify some of the information. This is a large project. This is the second time we received communication late, and way passed the window to be reviewed properly before us on the agenda. Again, it is dated December 7. Now we are trying to rush it so they can get things done easier. They didn't make it any easier for us.

MR LAZARES: We voted to continue it. I agree with Commissioner Athas. I think it will require more questions and more answers. I would prefer to wait until Lucia gets back and Will Paulitz and her have a chance to discuss this. That is my opinion.

ATTY KEILTY: Can I just speak to the issue of these deadlines? Do you know when your deadline is for making the January meeting? That is tomorrow.

Discussion ensued. Attorney Keilty was aggressive about the commission voting on the NOI. The commission was in their right to continue under **Chapter 32 local ordinance section 18:** *"Continuation of Public Hearing-The Commission shall have the authority to continue any hearing for good cause, to a certain date announced at the hearing, for reasons stated at the hearing, which may include the receipt of additional information offered by the applicant or others, including the DEP, or information and plans required of the applicant deemed necessary by the*

Commission. In addition, when there is snow on the ground and/or the ground is frozen the Commission may continue a hearing until the snow melts and/or the ground thaws if it determines that accurate wetland delineation is not possible otherwise”.

Attorney Keilty stated he would waive his 21 days to draft the Order if the commission voted tonight. The Agent is out of the office until further notice. **Further discussion ensued while making the motion.**

Motion to reconsider the vote to continue as made by Mr. Rizzo. Seconded by Mr. Vivaldi. (Vote passed **4-2** with the following voting **YES**: Mr. Comak, Mr. Rizzo, Mr. Vivaldi and Mr. Lazares. *Ms. Green and Mr. Athas voting NO.*)

Motion to close the public hearing as made by Mr. Rizzo. Seconded by Mr. Comak. (vote passed **4-2** with the following voting **YES**: Mr. Comak, Mr. Rizzo, Mr. Vivaldi and Mr. Lazares. *Ms. Green and Mr. Athas voting NO.*)

Motion to issue a Standard Order of Conditions 1-50 also adding Conditions: **51**) spill containment underneath any stationary vehicles used for the business, **52**) owners have the responsibility to keep debris out of the abutting wetlands; adding **Checklists B (1&2), D, K, F** and Will Paulitz’s memo/conditions as made by Mr. Rizzo. Seconded by Mr. Comak. (Vote passed **5-1** with the following voting **YES**: Mr. Comak, Mr. Rizzo, Mr. Vivaldi Mr. Lazares and Ms. Green. *Mr. Athas voting NO.*

4. A continued Public Hearing on a Notice of Intent submitted by William Manuell (Wetlands & Land Management, Inc.) for Regency Realty Trust-Alfred Dimambro (Trustee). The proposed project is the construction of two buildings and site improvements paving, utilities etc. in riverfront to the North River. The property is known as 11-13 Wallis Street, Map 85, Lot 41A, Peabody MA

ITEM CONTINUED UNTIL THE JANUARY 12, 2022 HEARING at previous hearing. Tentative site visit 12.16.21 at 3pm. TBD

► **TREE REQUESTS- 269 Lynn Street**

Present: Tim Donohue- Iron Tree

Discussion ensued. They would like to remove the tree and grind the stump. All grindings must be removed on the day of tree removal. It will be level with the grade once removed. If not erosion controls (silt fence or log) must be installed before any soil can be added. The soil must then be seeded when appropriate. If the stump is to remain no other special conditions would be necessary.

The tree was approved to remove as discussed. **No motion was made.** Mr. Donohue will be in touch with the agent before work commences in February.

CERTIFICATES OF COMPLIANCE

5. A request for a FULL Certificate of Compliance as made by Attorney Mathew Snell on behalf of Stahl (USA), Inc. for DEP file 55-312. The project was the construction of a service building with associated appurtenances and land grading. The address is known as 13 Corwin Street, Map 92, Lot 6, Peabody MA.

Present: Attorney Matthew Snell

Motion to continue as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 6-0.

6. A request for a FULL Certificate of Compliance as made by Attorney Mathew Snell on behalf of Stahl (USA), Inc. for DEP file 55-323. The project was the construction of a commercial building with associated appurtenances, grading and mitigation efforts for the demolition of an existing building and it's appurtenances to accommodate commercial building. The address is known as 13 Corwin Street, Map 92, Lot 6, Peabody MA.

Present: Attorney Matthew Snell

Motion to continue as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 6-0.

7. A continued request for a FULL Certificate of Compliance as made by Frederick Hostrop (Neptune Engineering) on behalf 160 Main Street Realty LLC (Nikolay Polinovskiy) for DEP File No. 55-793. The project was the redevelopment of a previously degraded site for commercial and residential use. The address is known as 166 Main Street, Map 086, Lot 150B, Peabody MA. Partial CC has been issued. Item will remain on agenda until a Full CC can be requested.

CONTINUED UNTIL May 2022 at previous hearing TBD- no motion needed

ENFORCEMENT ORDER/VIOLATION ORDERS

8. Violation Order issued to M&R Trucking and Paving for the alleged violation: Washing fleet trucks with soap in riverfront and draining the water contents directly into the river with no treatment or permission from the local commission or stormwater committee. The address is known as 119 R. Foster St., Peabody MA.

Present: Michael Wood- owner of M&R Trucking

Summary: Mr. Wood currently uses Dawn soap to wash his trucks. Mr. Lazares asked if he could wash them elsewhere off site not in riverfront. Mr. Wood stated he could not and wants to continue washing his trucks with the commission's blessing. **Discussion ensued** regarding using Simple Green instead. No motion was made. They also mentioned having the Environmental Engineer (William Stansfield) chiming in on what product could be used in accordance with the City Stormwater Ordinance. Mr. Wood stated Bill is supposed to forward the commission a memo. The memo has not arrived to date. He was asked to appear at the January meeting to discuss further when the agent is back and forward the memo from DPS once it is received.

9. A continued Enforcement Order issued to Pedro Polini for work 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.

No update from the city solicitor to date. Item will be discussed at the next hearing.

OTHER AND DISCUSSION ITEMS

●47 Tremont St- Attorney Keilty requested a discussion with no paperwork submitted prior to the hearing. The commission allowed him to speak. His Order of Conditions has expired. He requested the commission sign off on a foundation permit without a valid Order of Conditions or wetlands permit. Ms. Green and Mr. Athas stated the commission should not sign off on a public hearing request until it is a public hearing. Attorney Keilty did not bring any paperwork or plans. Therefore, the commission stated the item will be discussed at the January hearing when appropriate documents have been distributed and the public is present.

Page 7- 12.8.2021

• **MINUTES- October 13 remotely held**

Motion to approve minutes as made by Mr. Athas. Seconded by Mr. Vivaldi. Adopted unanimously 5-1 (Mr. Comak no longer present leaving meeting at approximately 9:28 PM).

• **Adjournment**

Motion to adjourn as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 5-1 (Mr. Comak no longer present leaving meeting at approximately 9:28 PM).

The meeting adjourned at approximately 9:30 PM

Respectfully submitted, (To be signed electronically)

Chairman Stewart Lazares