



## City of Peabody Conservation Commission

---

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

### MINUTES

**June 16, 2021**

**Via Zoom ID 846 9919 3193**

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 Michael Rizzo  
Secretary Stewart Lazares  
Michael Vivaldi (left at 9:35 PM)  
Travis Wojcik  
Arthur Athas  
RitaMarie Cavicchio (Alt.)  
Vice Chairman Bruce Comak (not present entire hearing)

#### **MEMBERS ABSENT**

Melissa Cantin  
Amanda Green (Alt.)

**Also Present:** Lucia DeINegro, Conservation Agent; City Councillor Peter McGinn

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

In the absence of Mrs. Cantin alternate member Ms. Cavicchio had voting rights.

**ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION**

**1. A Public Hearing on an Abbreviated Notice of Resource Area Delineation submitted by LEC Environmental Consultants, Inc. (Ann Marton) for RJ Kelly Management, LLC (Brandon Kelly-applicant). The property owner is Analogic Corporation (Andrew Prete). The applicant is seeking confirmation for the extent and location of wetland resource areas that may be subject to jurisdiction under the Massachusetts Wetland Protection Act and the City of Peabody Wetlands Ordinance within and surrounding the property known as 8 Centennial Drive, Map 91, Lot 6, Peabody MA.**

**Present:** Ann Marton (LEC Environmental Consultants, Inc.) and Shawn Smith (RJ Kelly Management)

**Documents:**

- ▶ ANRAD Plan in Peabody 8 Centennial Drive- Cameron Morin Group, Inc. 6.14.21
- ▶ Vernal Pool Assessment Memo dated 6.3.2021

**Summary:** It is 60-acre site with an emergent marsh wetland system in the western portion of the site. There is a perennial stream that headwaters start on the other side of Route 128. It eventually flows into Strongwater Brook. This portion of the stream is unnamed and BVW is associated with it on this property site (western extent of property). The emergent marsh/PVP is bifurcated by an old historic farm road. There is a potential vernal pool (PVP). The local ordinance Chapter 32 protects PVPs. The site was delineated in March. LEC conducted a vernal pool assessment for numerous active months in the spring (April 9, 22 and May 20<sup>th</sup> following National Heritage certification guidelines). Based on their observations and a wildlife biologist's findings they concluded it does not function as a vernal pool. It has limited hydrology; it is surrounded by developed conditions and the upland areas that are near it that would provide upland habitat does not have a nice thick organic layer (duff layer is habitat characteristic that amphibians need). A new plan has been provided removing the PVP. The agent and Commissioner Athas conducted a site visit with LEC. Flag A20 was moved upgradient eight (8) feet and is shown on the revised plan. Staff explained that the commission needs to decide two important things on the application: 1) agree/disagree regarding the PVP not functioning as a VP and 2) if the concrete swale located off site is protected under local ordinance chapter 32 and has a two-hundred-foot buffer zone (*Chapter 32-2 Definitions- Resource Area- I. any river, stream, creek, brook, whether intermittent or continuous, natural or manmade*). The commission did not feel that the stormwater from Route 128 should be protected under Chapter 32. They waived their right to a 200-foot protection buffer zone. The item was open to members of the public. No one in the audience raised their hand.

Motion to close the public hearing as made by Mr. Athas. Seconded by Mr. Wojcik. Adopted unanimously. (passed 7-0)

Motion to accept the delineation plan as revised removing the Vernal Pool and agreeing the intermittent stream in a concrete drainage swale off site is not locally jurisdictional as made by Mr. Wojcik. Seconded by Mr. Athas. Adopted unanimously. (passed 7-0)

**NOTICES OF INTENT**

**2. A Public Hearing on a Notice of Intent submitted by Jose Vazquez (Ambassador Pools) for John Corrao (owner). The proposed project is the installation of an above ground pool at a single-family residence and the removal of bittersweet both in riverfront of Proctor Brook. The property is known as 9 Albert Road, Map 48, Lot 67, Peabody MA.**

**Present:** Jose Vazquez (ambassador Pools) and John Corrao (owner)

**Documents:**

- ▶ Plot Plan drafted by Gloral Associates stamped by John J Russell dated 4.6.21, Scale: 1" = 20' with bittersweet removal shown on abutting lot as hand drawn by Karon Skinner Catrone on 5.9.21.
- ▶ Invasive Species Removal Plan (narrative) drafted by Karon Skinner Catrone.

**Summary:** The commission discussed the project with the applicant. There were no members of the public that wished to speak on the matter.

Motion to close public hearing as made by Mr. Wojcik. Seconded by Mr. Athas. Adopted unanimously. (passed 7-0)

Motion to issue a Standard Order of Conditions reminding the owner of condition #49 is in perpetuity (*In the event a swimming pool is placed on this lot, the following condition shall apply: The content of water in swimming pools can be detrimental to wetlands plant and animal species. To remove harmful chemicals, it is the applicant's responsibility to leave the pool water standing without the addition of chlorine for a minimum of seven (7) days before draining (per the City's Stormwater System Ordinance). In this way chlorine concentration will be significantly reduced due to volatilization. All pool water, wherever possible, shall be drained through a dry well, rather than allowed to spread over the surface of the land. The City of Peabody Conservation Commission Office shall be notified prior to draining and shall approve the method of draining.*) also adding the following conditions: **51)** Condition #49 stated above regarding a pool on said property will be in perpetuity. This condition will remain as long as a pool is located at this address; **52)** Erosion controls MUST be inspected by the Conservation Agent or Staff before any work can commence. Compost logs or strawbales without plastic meshing shall be used. Haybales are not allowed; **53)** Invasive Species Removal Plan drafted by Karon Skinner Catrone. The work is only allowed once written permission from the city's Tree Warden (Brian Grant) is submitted to the commission as made by Mr. Wojcik. Seconded by Mr. Vivaldi. Adopted unanimously. (passed 7-0)

**3. A Public Hearing on a Notice of Intent submitted by Wetlands & Land Management, Inc. (William Manuell) for John and Bernadette Keilty (owners). The proposed project is the construction of an addition, demo and rebuild of existing deck in buffer zones. The property is known as 84 Ellsworth Rd, Map 73, Lot 220A, Peabody MA.**

**Present:** William Manuell (Wetlands & Land Management, Inc.) and John Keilty (owner)

**Documents:**

- ▶ Site Development Permit Plan located in Peabody Massachusetts 84 Ellsworth Road prepared by Eastern Land Survey Associates, Inc. stamped by Christopher R Mello with a final revision date of 6.1.2021. Scale: 1" = 20'

**Summary:** The consultant presented the project. There were no members of the public that wished to speak on the matter.

**Page 4- 6.16.21**

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously. (passed 7-0)

Motion to issue standard Order of Conditions 1-50 adding the following condition: **51) Erosion controls must be inspected before work can commence. Compost logs or straw wattles shall be used. No haybales or plastic meshing allowed as made by Mr. Vivaldi. Seconded by Mr. Comak. Adopted unanimously. (passed 7-0)**

**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**

Motion to continue until the August 4<sup>th</sup> meeting as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously. (passed 7-0)

**REQUEST FOR DETERMINATION OF APPLICABILITY**

**5. A continued Public Hearing on a Request for Determination of Applicability submitted by Keith Morris (Env. Consultant) for Pan AM Railways Inc. (Bill Wallace). The applicant is seeking confirmation of wetland boundaries, sensitive areas. This application is for verification of wetland boundaries only and not for the actual application of herbicides. Prior to application a Yearly Operation Plan will be submitted to the community and there is a 45-day review/comment period. The property is known ROW, (map on file), Peabody MA.**

Motion to continue until the August 4<sup>th</sup> hearing as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously. (passed 7-0)

**6. A Public Hearing on a Request for Determination of Applicability submitted by Damon Burke (Fraggle Rock Environmental) for Bosun's Marine (c/o Steve Chase). The applicant is seeking confirmation from the commission regarding the proposed "use" (storing of boats) and the requirement of a NOI. This "use" could be considered "fleet storage"- a Land Use with Higher Potential Pollutant Loads (LUHPPL). The property is known as 203 Newbury Street, Map, 35, Lot 33A, Peabody MA.**

**Present:** Jack Keilty, Esquire (legal counsel), Steven Chase (Bosun's Marine), Damon Burke (Fraggle Rock Environmental)

**Documents:**

- ▶ Proposed New Boat Sales Lot prepared by Jarosz Land Surveying dated 3.12.2021. Scale: 1" = 20'
- ▶ Project/work Description submitted with RDA (not dated)

**Summary:** The applicant was before the commission to determine if new boats may be stored at 203 Newbury Street. The Peabody Conservation Commission has been asked to determine if the parking of new, unfueled boats for sale is considered a LUHPPL. The maximum numbers of boats to be stored on any given date would be forty-five (45) new unfueled boats. **Discussion ensued.** The Peabody Conservation Commission has determined the parking of NEW, UNFUELED boats for sale is not considered a LUHPPL. The maximum numbers of boats voted on is forty-five (45) new unfueled boats. There were no members of the public that wished to comment on the application.

Motion to close the public hearing as made by Mr. Wojcik. Seconded by Mr. Vivaldi. (passed 7-0)

Motion to issue a Negative Determination stating the following: NEW boats may be stored at 203 Newbury Street. The Peabody Conservation Commission has determined the parking of NEW, UNFUELED boats for sale is not considered a LUHPPL. The maximum numbers of boats voted on is forty-five (45) new unfueled boats as made by Mr. Wojcik. Seconded by Mr. Lazares. (passed 6-1 with Mr. Comak not voting).

### **CERTIFICATES OF COMPLIANCE**

**7. A continued request for a FULL Certificate of Compliance as made by Peter Blaisdell, Jr. (Williams & Sparages) on behalf of AMConCorp (Patrick Coburn) for DEP File No. 55-865. The project was the construction of a commercial building and parking area (demo/rebuild, stormwater features and parking). The address is known as 3 Mount Pleasant Drive, Map 029, Lots 006, Peabody MA.**

**Present:** Gregory Hochmuth (Williams & Sparages)

**Summary:** Discussion ensued regarding cars parking on sidewalk and signs being vandalized. The erosion controls need to be removed carefully by a wetland scientist and Peabody ConComm signs also need to be installed on top of the granite markers as discussed at previous public hearings.

Motion to issue a Full Certificate of Compliance with the following conditions: **1)** O&M in perpetuity. Maintenance reports shall be submitted annually via email on 10.31; **2)** 4 granite posts are in perpetuity (signs must remain in good shape); **3)** Only low phosphorus fertilizer is allowed on the property; **4)** Snow Disposal Guidelines submitted with SWR 2.20.19 is in perpetuity as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously. (7-0)

**8. 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 (TBD late 2021) ITEM CONTINUED UNTIL JUNE 2021**

Motion to continue as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously (7-0)

**9. A continued request for a Full Certificate of Compliance as made by E.J. O' Sullivan (Haven Contracting Corp.) for DEP File No. 55-874. The project was the construction of a new parking area and a detention basin. The address is known as 22 Johnson Street, Map 34, Lot 12, Peabody MA.**

Motion to continue as made by Mr. Athas. Seconded by Mr. Lazares. The motion passed 6-1 with Mr. Comak recusing himself.

### **ORDER OF CONDITIONS**

**10. A Public Hearing on an Amendment Request for an Existing Order of Conditions DEP File. No 55-878 submitted by Mohammad Haque (AMIN Architecture Planning Interiors) for Boston Muslim Cemetery Corp (owners). The applicant is requesting confirmation if a new NOI is required or if the work can be approved under an Amendment Request per DEP's policy. The changes are the following: new retaining wall, landscape slope and removal of trees. The property is known as 530 Lowell Street, Map 35, Lot 27A, Peabody MA.**

**Present:** Mohammad Haque (engineer of record), Attorney John R Keilty (legal counsel), Syed Nuruzzaman (Chairman of Boston Muslim Cemetery), Mark Fournier (builder) and Md Islam (Secretary Boston Muslim Cemetery)

**Documents:**

Proposed Cemetery 530 Lowell Street Map 035 lot 27A

► Sheet TOPO-01- Topographic Plan, Peabody, MASS-drafted by Amin Architecture Planning Interiors stamped by Abdulkader C. Hamadeh scale: 1" = 20'

► Sheet D-01- Detail Retaining Wall Section- drafted by Amin Architecture Planning Interiors stamped by Abdulkader C. Hamadeh scale: 1-1/2" = 20'

**Summary:** The main reason for the Amendment request is that the original plans did not take into consideration the ground water. Hayes Engineering submitted paperwork showing groundwater elevations but according to the presentation tonight they were incorrect. The cemetery needs five (5) feet of separation and presently they only have four and a half (4.5) feet. If the wall is not constructed bodies will be decomposing in water. This is not a desired outcome for various reasons. A four (4) foot fence will be installed along the wall. Since a fence will be installed the granite posts will not be necessary anymore. Instead, the commission asked for seventeen (17) signs 12"x12" be installed along the fence twenty-five (25) feet apart. A revised plan with a sign detail must be submitted and approved before the Amendment can be released. The twenty-five (25) foot no disturb zone is still in perpetuity. The commission asked for a revised plan showing the following: **1)** granite posts removed, **2)** 4-foot fence around perimeter of retaining wall, **3)** seventeen (17) signs (12"x12") shown on proposed fence every twenty-five (25) feet, **4)** sign detail to be approved before the Amendment is released. **Discussion ensued** regarding health requirements and bodies decomposing in water. The commission felt the change of project falls under and Amendment and will not require a new Notice of Intent. The City's Environmental Engineer did not submit any comments for the changes. There were no members of the audience that wished to speak on the matter. Green Burial practices are required still per the original Order of Conditions. Traditional burials are not allowed under this amendment. The following original conditions are still required under the Amendment: **51)** All burials MUST follow Project Narrative regarding Muslim Burial Process (traditional burials are NOT allowed under this OoC). NO CHEMICALS are allowed in body or coffin wood-traditional burials are not allowed under this OoC. A new NOI is required if this condition changes, **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 AND **54)** The "No Disturb Zone" is in perpetuity (as discussed and to be shown on revised plan).

Motion to close the public hearing as made by Mr. Athas. Seconded by Mr. Wojcik. (The motion passed 6-1 with Mr. Vivaldi not in attendance).

Motion to issue an Amendment to the Order of Conditions **DEP file 55-878** contingent upon a revised plan being submitted and approved as discussed made by Mr. Lazares. Seconded by Mr. Wojcik. (The motion passed 6-1 with Mr. Vivaldi not in attendance).

**ENFORCEMENT ORDER/VIOLATION ORDERS**

**11. 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 2021 WHEN VEGETATION HAS GROWN IN – TBD**

Motion to continue as made by Mr. Lazares. Seconded by Mr. Comak. (The motion passed 6-1 with Mr. Vivaldi not in attendance).

### **OTHER AND DISCUSSION ITEMS**

● **Appointment of a one person nominating committee for ConComm officers**

-Commissioner Wojcik was appointed as the nominating committee. The officers will be nominated at the August hearing.

● **Stewart Lazares- Secretary updates on CPC filing Peabody Lakes & Ponds**

-CPC voted on the funds. City Council needs to approve the funds before any work can commence.

### **TREE REQUESTS**

**6 Leblanc Drive-**

Proposed work approved as amended on written request dated 6.9.21. Stump to remain three (3) feet tall. No stumping/grubbing etc.

**45 Longview-**

Three (3) trees can be removed/limbed without a formal filing only if the following conditions are met:

- All staging (crane, chipping, stockpiling etc.) shall take place as far from the resource as practicable.
- Three (3) trees as shown in the pictures submitted with the Tree Removal Request Application can be removed/limbed. Two trees in the yard can be removed and grinding is allowed. One Tree can be limbed as discussed at the hearing last night. Please see pictures and Tree paperwork for further information.
- Branches and removed tree material shall not be placed in the resource area. All material must be placed on existing lawn/driveway or removed from site as soon as practicable. Wood chipping is NOT allowed along the resource area without permission from the Agent.
- All future and existing landscaping material shall be bagged and picked up appropriately for yard waste collection or stored as far from the brook as possible.
- If the property owner wishes to replant shrubs or saplings an approved list can be provided upon request.
- Once the trees are removed the Conservation Agent should be contacted immediately via email.

### **CERTIFICATES OF COMPLIANCES CONTINUED**

► **5A Danforth Request for Certificate of Compliance on DEP File No. 55-221**

**Summary:** Staff conducted a site visit and confirmed work was done in compliance.

Motion to issue a **Full Certificate of Compliance on 55-221** with the ongoing condition: No landscaping debris (grass/leaves etc.) shall be dumped or stored in buffer zone to the resource area in the future. The city has a curbside yard waste pickup. The future property owners **MUST** take advantage of this free service as made by Mr. Athas. Seconded by Mr. Wojcik. Adopted 6-1 with Mr. Vivaldi not in attendance).

► **Winona Pine Subdivision (3 Yvonne Way) Request for Certificate of Compliance on DEP File No. 55-787**

**Summary:** The Conservation Agent did not conduct a site visit. Brendan Callahan has been working with the property owner on the CC request. He was not in attendance but drafted a memo for the file. **Discussion ensued.**

Motion to issue a Full **Certificate or Compliance on DEP File No. 55-787** to be held until the city engineer Mr. Paulitz signs off on the As Built Plan, a follow up site visit by staff and also adding the following conditions in perpetuity: O&M Plan in perpetuity, Deed Restrictions in perpetuity, 52) No Disturb Zone in perpetuity, 56) granite posts/signs are to remain in perpetuity and 55) metal signs on catch basin to remain in perpetuity as made by Mr. Athas. Seconded by Mr. Wojcik. (The motion passed 6-1 with Mr. Vivaldi not in attendance).

- **MINUTES- March 24, 2021** NOT voted on due to time restraints.

- **Adjournment**

Motion to adjourn as made by Mr. Wojcik. Seconded by Ms. Cavicchio. (The motion passed 6-1 with Mr. Vivaldi not in attendance). The meeting adjourned at 11:09 PM.

**Respectfully submitted,** (To be signed electronically)

---

**Chairman Michael Rizzo**