



## City of Peabody Conservation Commission

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

### MINUTES

#### **SPECIAL PUBLIC HEARING July 12, 2023**

**Link:** <https://peabodytv.org/videos-on-demand/?vid=1055>

At this time the Peabody Conservation Commission hearings will continue to be held remotely. Remote participation is allowed in accordance with Section 20 of Chapter 22 of the Acts of 2021 signed into law by Governor Baker on February 12, 2022, suspending provisions of the Open Meeting Law, G.L. c. 30A, Section 18. as extended by Section 20 of Chapter 22 of the Acts of 2022 and further extended by the Final Compromise Bill enacted by the House and Senate on March 23, 2023, and signed by Governor Maura Healey on March 29, 2023.

#### **MEMBERS PRESENT**

Chairman Stewart Lazares  
Vice Chairman Michael Rizzo  
Sec. Michael Vivaldi  
Bruce Comak  
Arthur Athas  
Amanda Green

#### **MEMBERS ABSENT**

Ritamarie Cavicchio

**2 alternate member openings**  
(Please forward resume to Mayor's  
office if interested in being appointed)

**Also Present:** Lucia DelNegro, Conservation Agent;

**CHAIRMAN LAZARES CALLED THE MEETING TO ORDER at 7:00 PM**

► **A continued Enforcement Order issued to the Salem Country Club, Inc. - for the following activities: Removal of living trees/grinding/grubbing stumps in buffer zone/in close proximity to jurisdictional resource areas and depositing woodchips in buffer zones and along local riverfront woods. The property address is known as 133 Forest Street, Peabody MA.**

**Present for Country Club:** Attorney Barry Fogel, William Rocco and Thomas Miles (SavATree)

**Present for the city (peer review team):** Michael DeRosa (DeRosa Environmental Consulting, Inc.) and Ben Staples (Master Arborist)

**Summary:** Mr. DeRosa went over his peer review letter dated July 10, 2023. The current restoration plan is labeled “final”. What is before the commission is not final. There are several missing pieces. Mr. DeRosa felt the appropriate name for the plan before the commission would be either interim or proposed restoration plan. The word “final” before the plan is somewhat misleading to the commission and the public. The commission does not have a final restoration plan to date. Shrub plantings will take place in the Fall of 2023. Mr. DeRosa recommended that the commission further Amend the EO to state that the final restoration plan will show the locations and quantities of the species planted. Page fifteen (15) of the current restoration plan needs to be updated with quantities, locations and revised species. Page four (4) of the restoration plan discusses geolocating the trees planted. The restoration plan should be updated to state that the locations of the tree tags are represented on the as built figures. It will make the restoration locations easier to reference in the future. **Discussion ensued** regarding shrubs requiring some sort of tag that can be referenced as the plants grow over the monitoring seasons. Mr. DeRosa stated Exhibit E should be updated to show the corresponding hole numbers for each species. It should be submitted in November with the final plans. The pollinator habitat has not been designed yet. There are a few locations that have been discussed. It will need to be shown on the master plan once the location(s) have been determined. The following items still need to be performed: plant twelve (12) trees in the wetlands (agreed to plant in the Fall of 2023), Pollinator Garden created and the locations/quantities of proposed shrubs.

Mr. DeRosa went over a spreadsheet that was created for the trees and plants to be monitored. It is up to date for what has been planted thus far. It is a simple way to monitor the plantings. **Discussion ensued** about what items are complete or have not been complete via another spreadsheet that was discussed. Once all the plantings are done the commission will be in the monitoring mode for the next few years. The shrubs, pollinator habitat and tree plantings in the fall are the last items to be completed. All this was verbally approved by the commission beforehand.

The DeRosa Team and staff will monitor the reports over the next five (5) years). The chair asked the country club if they wished to speak. Attorney Fogel  
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stated he did not receive the letter mentioned earlier in the meeting. He requested a copy of the letter be forwarded to his office. He also does not agree with a further Amended EO.

ATTY FOGEL: As far as the number eight planting, I think the plan has always said that that the idea was to dig the holes when it gets as dry as possible in the late summer and do the planting in the Fall. Our expectation is that unless it keeps raining like it has, we may end up in August with a drier spell and that would be a good time for the excavation of those holes. As far as the shrubs in areas A-L we gave you the list. We gave you figures previously that sort of conceptually showed the shrubs would be planted interstitially among the trees once we knew where the trees were going to be planted. Which is why they couldn't be located ahead of time. I think anyone who has been out there has seen there has been a fair amount of succession of undergrowth in the areas A-L where the trees were planted. The idea is that it really is only beneficial to plant shrubs in places where there is space. I don't think anyone would suggest that the club cut down the succession of any native understory. Or other trees that are growing naturally to put a shrub in. The intention was that you would get a plan in the next couple of months once the trees have been geolocated. Then those figures can be drilled into with some detail and locations for understory growth can be indicated. And locations for shrub plantings can be indicated. We think it is better to keep this as sort of an iterative process with you and your peer reviewers rather than sort of trying to set this up as requiring a brand-new Enforcement Order and brand-new plan. Another comment. As far as tags on the shrubs, it makes sense for the shrubs planted in the buffer zone areas. Bill may have a photograph he can share later but that pond bank on number two, where the shrubs were planted is fully grown in. Not only with the shrubs but a lot of succession has taken place of native species there and it is just thick. I am going to call it impossible. It doesn't really lend itself to trying to go in there and mark the one hundred one-gallon shrubs that were planted there. We think it is a better conclusion that the goal was to have that pond fully vegetated and revegetated. That has been accomplished. We respectfully push back on the idea of trying to mark and geolocate the shrubs. They were planted and spaced evenly. I am assuming that either Ben, Mike or Evin were out there and saw that they were planted. That is the one thing we would take issue on that item. As far as pollinator habitats, I think Mike DeRosa mentioned this, but a couple of them have already been established. Bill, you can confirm it. It might be near the eighteenth tee. Or the fourteenth tee. (Bill chimed in and said both have been established already).

**Discussion ensued.** The Country Club does not think a further amended EO is necessary. The discussion continued regarding the geolocating and tags on the trees.

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ATTY FOGEL: Before I finish one last thing. We gave you in this plan figures that showed where the no-disturb zones and the jurisdictional markers will be. I will call them marked up. We sort of used yellow high-lighting and red squiggles to show where those would be. The plan, the idea, the concept is that those would be locked in as well as part of the GPS process and put on a final set of figures. So, what you will get in a final set of As Built in November are where the No-Disturbs are. Where the granite markers are. Where the trees are. Where the shrubs would be planted in and amongst the trees and successional growth.

MR LAZARES: I am going to try and summarize. You said you don't want to do tags on the shrubs. The one hundred tags you feel are not able to get in there because of the undergrowth.

**Discussion ensued** regarding the shrubs that were planted, any invasives that have grown in and any native species that have taken root. One hundred shrubs have been planted along the pond bank. However, invasives and other opportunistic plants have also grown in. **Discussion ensued** regarding the bank being lush with vegetation and functioning for habitat. However, the commission still would like to know if 75% of the shrubs planted as part of the restoration survive the 5-year monitoring period. In the Fall of 2023, the DeRosa Team can try and locate the planted restoration plants and decide if remediation of invasives is necessary along the pond bank. The DeRosa Team is worried that some invasives may compromise the function and value of the plantings that have been installed as part of the remediation. The picture displayed at the hearing shows some raspberry bushes and elderberry in the picture. It was hard to determine what is presently growing. The club's attorney felt that 75% survivorship should not include the pond bank. The commission did not agree and will decide later. Some commissioners were worried that invasives would choke out the native plants required as part of the restoration. The commission would like to see 75% of native species on the bank. This will be circled back on later in the season. Attorney Fogel was very upset and thinks the bank should remain vegetated with whatever is growing now. He would be willing to manage invasives but tagging the shrubs and tracking them seems ridiculous to him. **Discussion** continued regarding the bank and the plants. In November they should be able to locate all the plants that were installed. The plants will be much more visible in November and the winter.

The shrubs that will be installed in the A-L areas must have tags on before installation. Attorney Fogel agreed that this is in the plan. In November the club will submit an As Built and report. There was confusion with the label "final" on the plans. Everyone agreed that the plan in front of the commission is the plan

that was approved and will be completed. A brief discussion ensued about proposed locations for the markers and the snow stakes. Once they are installed, they also will be shown on the as built plans. Attorney Fogel shared his screen.

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For the record he wanted to show the figures for the No Disturb areas proposed for granite markers and future snow stakes. He confirmed all these figures will be shown on an As Built once the entire restoration has been completed. The commission will be able to review the markers in the field to approve, disapprove or require additional markers etc. The club will also revise their scorecards to explain the color-coded stakes. Ms. Green asked that they make sure the new shrubs are tagged appropriately before planting them. They confirmed the new shrubs will be tagged before installation. The pollinator habitats will also be geolocated and shown on the final As Built. A brief discussion ensued regarding the GPS technology that will be used. Attorney Fogel asked that the plan be accepted at the hearing. **Discussion ensued** before the commission decided on the wording of the motion. The commission does not agree that the plan submitted is the Final Plan. It is the plan that is being implemented and may be revised if the commission deem it necessary. More work is required.

**Motion** to approve/accept the plan submitted that has not been accomplished in total but is being implemented presently with the caveat that November 30, 2023, is the end date as made by Mr. Rizzo. Seconded by Mr. Athas. (Motion passed 5-1 with Ms. Green voting NO).

**Motion** to continue to the September 13 hearing with a written report/project update possibly being adequate and adjourning the public hearing as made by Mr. Rizzo. Seconded by Mr. Comak. (Adopted unanimously 6-0).

**The meeting adjourned at 8:18 PM**

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

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**Chairman Stewart Lazares**