



## City of Peabody Conservation Commission

---

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

### MINUTES

**August 4, 2021**

**Via Zoom ID 885 6684 5865**

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  
Vice Chairman Bruce Comak  
Secretary Stewart Lazares  
Travis Wojcik  
Arthur Athas  
Michael Vivaldi (left at 10:26 PM)  
Alt. RitaMarie Cavicchio (left at 9:20 PM-no voting rights)  
Alt. Amanda Green (left at 11:17 PM-had voting rights)

#### MEMBERS ABSENT

Melissa Cantin

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

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:01 pm

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

**NOTICES OF INTENT**

**1. 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 as made by Mr. Lazares. Seconded by Mr. Athas. Adopted unanimously (7-0).

**2. A Public Hearing on a Notice of Intent submitted by Joseph & Cara Denisco (owners). The proposed project is 20' x 20' addition to single family home. The property is known as 35 Nancy Ave, Map 48, Lot 59, Peabody MA.**

**Present:** Joseph & Cara Denisco (owners)

**Documents:**

► Site Development Permit Plan located in Peabody MASS 35 Nancy Avenue prepared by Eastern Land Surveyor Associates, Inc. dated May 25, 2021- Scale: 1" = 20'

**Summary:** Neither the contractor nor the consultant were at the hearing. Staff assisted the property owners with their presentation. **Discussion ensued.** A concrete sport pad was installed in 2020 in the riverfront without ConComm approval. An addition was also constructed in 2013 without ConComm approval. The building department's software did not catch the riverfront and erroneously approved the addition without the ConComm's permission. Other work done on the lot preceded Regulations. If the commission approves the plan the entire property will now be complying with state and local regulations. The commission was not concerned with riverfront being altered because the bike path runs behind the property separating the river from the parcel. The proposed addition will be built on existing grassy lawn. Commissioner Wojcik asked the property owners if they would be willing to plant shade trees on the site to offset the work. They stated the property did not need trees. The commission did not require any trees or shrubs to be planted. No one from the public wished to speak for or against the project.

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

Motion to issue a standard Order of Conditions 1-50 reminding the owners of the pool conditions **49)** 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. THIS CONDITION IS IN PERPETUITY and the special conditions: **51)** The concrete pad shown in the rear of the property MUST remain a concrete pad. No structures shall be erected on said pad without filing a NOI; **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 as made by Mr. Wojcik. Seconded by Mr. Comak. The motion passed 6-1 with Mr. Vivaldi voting NO).

**3. A Public Hearing on a Notice of Intent submitted by Norse Environmental Services, Inc. (Maureen Herald) for Eric Pelletier (owner). The proposed project is the installation of an inground swimming pool, pool patio, raze deck, install patio, associated grading and utilities within buffer zone of BVW. The property is known as 6 Balgreen Drive, Map 31, Lot 29, Peabody MA.**

**Present:** Steven Erikson (Norse Environmental)

**Documents:**

► Plot Plan of Land Peabody, MA prepared for Eric Pelletier & Monica Barcamonte- 6 Balgreen Drive. Scale: 1" = 30' with a final revision date of August 11, 2021 stamped by David P. Terenzoni

**Summary:** The plan needs to be revised to show the erosion controls extended to both side lot lines. The plan must also show a detail of approved erosion controls. The consultant stated they did not anticipate the need to stockpile on site. The property is all existing lawn. There is not an alternative location for the pool given the zoning restraints. The pool will be eight (8) feet deep maximum. The commission asked for the plan to be revised showing an erosion control (EC) detail as well as the EC line extended to the side lot lines. No members of the public wished to comment.

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

Motion to issue a Standard Order of Conditions 1-50 contingent on a new plan being submitted and approved by staff also reminding the applicant of standard conditions: **#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 and **#27B**) Erosion controls MUST be inspected by the Conservation Agent or Staff before any work can commence as made by Mr. Lazares. Seconded by Mr. Wojcik. (Adopted unanimously 7-0).

**4. A Public Hearing on a Notice of Intent submitted by LEC Environmental Consultants, Inc. (Andrea Kendall) for Sumco Eco-Contracting LLC (Richard Sumner). The applicant proposes site preparation activities in support of future development by others. Given the size, topography and configuration of the property and the goal to maintain/improve the existing contiguous forested vernal pool buffer the project footprint of any development will need to occupy the north and west portions of the site and will result in permanently impacting the western quarry hole. Replication is proposed for lost resource areas. The property is known as 0 & 51 Jubilee Drive, Map 81, Lot 003 and Map 91, Lot 012, Peabody MA.**

**Present:** Travis Sumner & Chad Sumner (Sumco Eco-Contracting LLC), Brian Madden (LEC Environmental Consultants, Inc.), Austin Turner (Bohler Engineering)

**Summary:** An off-site intermittent stream exists to the west. There are three wetlands located on this property. BVW, Isolated Wetland/Isolated Land Subject to flooding and a vernal pool (easterly wetland). No breeding activity took place in the westerly quarry hole. Therefore, LEC does not believe it is a vernal pool. It still does have habitat value. The project proposes to fill the westerly wetland pocket and replicate it next to the BVW located downgrade on the southern portion of the site. They are also proposing buffer enhancement around the vernal pool (VP). This would benefit the spotted salamander population. **Discussion ensued.** At first the commission was confused as to why they filed this type of permit request when they are not sure what will be constructed. These comments mirrored MASSDEP comments: *"It is unclear why the ILSF in the corner of the property needs to be filled. Without a proposed end use, MassDEP cannot evaluate if impacts to*

*resource areas have been minimized. In addition, not enough information was provided to determine if ILSF performance standards were met pursuant to 310 CMR 10.57(4)(b)(1). Detailed runoff calculations for existing and proposed conditions should be provided to determine if lateral displacement of water will cause flood damage. Plans are difficult to read, and a copy of plans should be provided without the aerial photo to the Commission and to MassDEP. Commission may want to consider a wetland peer review for resource areas including BVW, ILSF, IVW, intermittent stream and vernal pool. Resource areas shown on plan should not be listed as "approximate" – they should be flagged, survey-located and shown as definitive on the site plan."*

**Discussion ensued** regarding future site access. The applicant is selling the property and trying to maximize the use of the property for potential buyers. At first the chairman agreed with MASSDEP comments but opinions changed as the meeting went on. Presently there are a few interested parties that will want to utilize the westerly section of the property. Future buyers feel that the site is limited for future development options. Mr. Sumner stated he is unsure of any future developments on site at this time. Future developers will need to file a new NOI for any construction on site. **Discussion ensued** regarding the history of the industrial park, the functioning habitats currently on site and the repercussions of a development near the VP. The dominate request of the NOI is to fill the quarry hole and replicate it to prepare the property for a future sale and development. **Discussion ensued.** The applicant reminded the commission there are three components to the application: buffer restoration around existing VP, filling of quarry hole and replication of quarry hole near existing BVW. The applicant believes that the existing quarry hole will be problematic for any potential investor. All future work would require a NOI. There was further discussion about the wetlands being marked "approximate" on the submitted plans. They felt they did not need to flag the wetlands under the current NOI. Mr. Turner stated that LEC flagged the property "years and years ago." The quarry hole is approximately two and a half (2.5) feet deep in terms of "present" water depth. However, it is substantially deeper than that number depending on the side you are standing on (ten [10] to fifteen [15] feet deep). There was a discussion about the topography of the site. Further discussion about future blasting and the repercussion to the existing vernal pool being drained by possible fissures. There was also a discussion about the lateral displacement of water. The applicant felt that they did not need to address blasting because that would be discussed under a future NOI. Mr. Sumner made comments about other development in the industrial park doing similar work thirty years ago when the park was developed. It was uncertain the relevance of what was allowed thirty years ago when the industrial park was created since regulations have changed.

An old topography map was shared on the screen. **Discussion ensued.** The applicant did not feel that filling the quarry would fundamentally change how the property would drain. The applicant felt that future blasting should not be discussed under the current NOI. There was further discussion about conditions that could be placed on an Order for the current filing. Mr. Wojcik would only want the quarry hole filled if a permit for a future development would take place. DEP does have a policy on multiple file numbers so this could be tricky to enforce.

Mr. Athas asked why they couldn't have a contingent P&S signed instead of going the current route. The applicant stated a future developer will not want to pay an engineer for an NOI and plans if it the did not know for certain that the quarry hole could be altered. Possible conditions were discussed again for the current application. Further **discussion** regarding blasting techniques continued. Most likely the blasting would be a terraced approach. The wetland expert could not say for certain if fissures could be created during blasting or if it would have potential to affect the existing vernal pool. Ms. Green was on site and stated she could hear frogs ribbiting during the site visit. The site is presently an active habitat. The commission felt that a site visit was warranted. Ms. Green understands both sides of the spectrum regarding the property and the proposed project. She mentioned the industrial park with the backdrop of the highway. Although it is in a highly developed area the parcel is currently being used by critters. **Discussion ensued.** Mr. Comak fully supports the project as presented.

There was a further discussion regarding the city's local wetland ordinance:

*"Chapter 32: Sec. 32-36. General Wetland Loss and Replacement pursuant to this ordinance, the Conservation Commission shall not permit wetland alteration except in the following circumstances:*

*A-Water dependent uses and structures*

*B-Construction of new utilities and operation and maintenance of existing utility lines;*

*C-Public projects*

*If the Conservation Commission finds that there is no feasible alternative to the proposed project, that the amount of wetland alteration is the minimum necessary to accomplish the goals of the project, and that acceptable mitigation has been provided to foster the value."*

**Discussion ensued.** The applicant did not feel that the commission should be discussing future blasting under the current application. They did state that wildlife is currently using in the quarry hole that will be altered.

A site visit will take place on **8.12.21 at 11 am**. Staff will make sure to post a notice 48 hours before it takes place. However, a quorum is not anticipated.

The item was open to members of the public to speak.

**Kathy Wells, 22 Westview Circle**

MS WELLS: I want to speak to the vernal pools. I am a big naturalist. According to MASS Audubon there are eleven species of salamanders in Massachusetts. Three of them are in danger. They live in vernal pools. Every spring salamanders, tree frogs, small shrimp type animals make their way to the vernal pools to breed. Some of them continue to go to the same vernal pool that they were born in. If you replicate a wetland area and it is not where they originated from that is not fair to the wildlife. Mass Audubon says I should be asking my conservation commission to follow the laws to protect our wildlife. Vernal pools are endangered right now. These animals are endangered right now. I know that construction is important but to approve something where they don't even know what they are doing is just opening a door. I feel it is too broad. I think that if these gentlemen had a project that was specific, they knew specifically where they wanted the building located and how they were going to handle it. That would be more desirable. To replicate a wetland or to change it when the animals that live there like it the way it is. It does not seem right when you don't even have a project slated for the area. That is all I wanted to say. I feel strongly for conservation. I believe that is what the Conservation Commission is supposed to be all about. Thank you.

**Discussion ensued.** Another resident named Ann had similar reservations about the project. She applauded the commission for the diligence in caring about the environment.

MS WELLS: My other concern is that there is something called the Big Night. It where amphibians cross the road and properties to get to the vernal pool every year. I don't know what the changes are going to be on this site and you don't either. It depends on who purchases the property. I hope that will be taken into consideration. They need to have a direct way to get back to the vernal pool every spring. I appreciate all that you all do as well. Thank you.

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

**REQUEST FOR DETERMINATION OF APPLICABILITY**

**5. A Public Hearing on a Request for Determination of Applicability submitted by Gregory Hochmuth (Williams & Sparages LLC) for Steven & Nicole Racki (owners). The proposed work is installation of an in-ground swimming pool in buffer to BVW. The property is known as 28 Diane Road, Map 108, Lot 306, Peabody MA.**

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

**Documents:**

► Plan to Accompany Request for Determination of Applicability in Peabody MA Showing Proposed Swimming Pool-#28 Diane Road prepared by Williams & Sparages, stamped by John J. O'Roarke III with a final revision date of 7.28.2021.

**Summary:** The project is a proposed in-ground pool. The consultant gave a brief presentation. **Discussion ensued.** The plan needs to be revised to show the patio around the pool. All the soil from the pool excavation will be removed off site. No members of the public wished to comment.

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

Motion to issue a Negative Determination with the following conditions: **1)** Work must be done according to plan entitled Plan to Accompany Request for Determination of Applicability in Peabody MA Showing Proposed Swimming Pool-#28 Diane Road prepared by Williams & Sparages, stamped by John J. O'Roarke III with a final revision date of 7.28.2021 (to be revised as discussed); **2)** Notify the Conservation Commission in writing 48 hours prior to construction start-up that approved erosion and sedimentation control (ESC) are in place and ready for inspection. 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; **3)** 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 (in perpetuity) as made by Mr. Athas. Seconded by Mr. Lazares. (Adopted unanimously 7-0).

*(Vice Chairman Bruce Comak recused himself from item 6 discussion and vote. Ms. Cavicchio left the hearing prior to the item being heard).*

**6. A Public Hearing on a Request for Determination of Applicability submitted by BSC Group (Marissa Valentino) for Peabody North Dartmouth (c/o Mike Moskowitz). The proposed work is a maintenance program to repair portions of an existing failing wall. The site is presently unsafe and the detention basin is not functioning properly. Work may start under an Enforcement Order prior to the hearing. More information can be obtained by city staff via email below. The property is known as 189 Andover Street, Map 39, Lots 42 & 43 , Peabody MA.**

**Present:** Mike Moskowitz (Peabody North Dartmouth Realty LLC); John Sabbag (owner's representative/project manager); Mike Yako, PE (GEI Consultants, V.P. /Principal – Consulting

Engineer); Stephen Sarandis (GEI Consultants, Geotechnical Engineer); Marissa Valentino – BSC Group-Project Manager) and Michael Cronenberger – (HELICAL)

**Documents:**

- ▶ Permanent Soil Nail Wall prepared by Geotechnical Consultants, Inc. & Helical Geotechnical Design/Build stamped by Richard Pizzi Sheets:SN1, SN2 and SN3; SCALE: as noted dated 7.6.2021.
- ▶ Retaining Wall Repair-189 Andover St prepared by BSC Group stamped by Marissa Jean Valentino- Sheets: 1-3; Scale: As noted with a final revision date of 8.11.2021.
- ▶ Description of Work submitted with RDA (no date or letterhead)

**Summary:** The proposed work is a maintenance program to repair portions of an existing failing retaining wall. The site is presently unsafe, and the detention basin is not functioning properly.

**Discussion ensued.**

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Wojcik. (The motion passed 6-1 with Mr. Comak recusing himself).

Motion to issue a Negative Determination with the following conditions: **1)** Work must be done as shown on plans as discussed with revisions as well as the following conditions: **2)** All erosion controls **MUST** be inspected before work commences including before the creation of the temporary construction access way. Haybales shall not be used; **3)** The Peabody Building Department must sign off on all aspects of wall construction; **4)** At the end of the repairs the detention basin must be in compliance with what was approved under the original Order of Conditions for said project (As Built Plan may be required); **5)** O&M from original OoC should be followed. A copy shall be filed with the commission; **6)** The dumping of snow into the detention basin from the top of the wall is prohibited. **THIS CONDITION IS IN PERPETUITY.** Signs must be installed along the back portion of the site 25 feet apart as shown on revised plan. The signs must read similar phrasing "Dumping of Snow Prohibited" as also shown on the revised plan to be approved by staff; **7)** Once work has been completed the contractor/property owner etc. shall notify the Conservation Agent in writing with all pertinent information. Email is acceptable [lucia.delnegro@peabody-ma.gov](mailto:lucia.delnegro@peabody-ma.gov) as made by Mr. Wojcik. Seconded by Mr. Athas. (The motion passed 6-1 with Mr. Comak recusing himself- Ms. Cavicchio left the hearing prior to the item being heard).

*Mr. Vivaldi and Ms. Cavicchio both left the hearing prior to the item being heard).*

**7. A Public Hearing on a Request for Determination of Applicability submitted by William Manuell (Wetlands & Land Management, Inc.) for 55 Pulaski Street Realty Trust- Dennis Giannias (Trustee). 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 55 Pulaski Street, Map 53, Lot 29, Peabody MA**

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

**Documents:**

- ▶ Plan of Land located in Peabody MASS 55 Pulaski Street prepared by Eastern Land Survey Associates, Inc. stamped by Christopher Mello. Dated 2.26.202. Scale: 1" = 20'.
- ▶ Wetland letter drafted by Wetlands & Land Management, Inc. Signed by William Manuell dated 7.1.2021.

**Summary:** The applicant was in front of the commission over the Spring of 2021 under an Enforcement Order. The Commission has since withdrew said EO. **Discussion ensued.**

The item was open to members of the public.

**Kathy Wells, 22 Westview Circle**

MS WELLS: I abut the Roadhouse on the other side. The Roadhouse has always had water pouring off their parking lot and down into this drainage area. The neighbors and the Conservation Commission have been well aware that this area is to collect the excess water that pours down from the pond above. We discussed it when the bus lot was there. We are all experiencing erosion of our properties, wet basements we did not have before the filling began. I would like to note that the Roadhouse has only been approved to be a restaurant and bar. They have not been approved to expand their parking lot to put alternate vehicles on it which they are doing now. Nobody has given them a cease-and-desist order on those vehicles. Lucia finally gave them a cease and desist on the filling. They were doing it on the sly over the weekend and nights. It is affecting us and that is why we submitted that letter. That drainage area is home to wildlife (birds, coyotes etc.).

**John Surman, 53 Pulaski St**

MR SURMAN: I live next door to the Roadhouse on the high side. All behind our yard to the big pond up the street that water cascades even if it is not raining like it has been. It is a natural flow that goes right through Dennis's parking lot. As you can see it runs his parking lot and cascades down, through the fill and into the pond area. There has always been a pond there and wildlife. Before they filled in the bus lot across the street there was a vein of fingers where the river came all the way up to the fence. They filled that in illegally years ago. There was water going through, but it was filled in. Water still flows through but not as good as it used to. That was a natural area. And lack for better words lateral displacement of water that could cause flood damage. Especially in the houses that were built down below it. I talk to Dennis all the time. I just don't want the wetlands to get destroyed. You guys are supposed to be watching the wetlands. There are animals there and they deserve to have their place too. That is all I have to say. Thank you.

**Discussion ensued.** The commission asked the agent to reach out to Building, Health and DPS to verify if current work/use is allowed at the parcel. Staff indicated that she has reached out to various departments after a complaint was filed with the mayor's office in 2020 and before the issuance of the EO in the Spring. There have been ongoing complaints for the last six years and she is confident that building and health have already been to the site at least once. Regardless of the activities the commission concurs with the plan in front of them but has no jurisdiction over the activities on site as discussed.

MS WELLS: I want to add to the conversation that I believe this should go in front of the Zoning Board. Dennis has been pulling this stuff since I moved here in 1996. He has a residential 1 permit with permission to run the business he is running right now. Then he received a special permit for two limousines to be parked in the area where the fill is now (before the fill was there). He began filling in the middle of the night. We would wake up and there would be twenty vehicles parked and then they would be gone two days later. Maybe zoning needs to be involved. I believe he is not following the zoning regulations.

MR RIZZO: Ok I could concur with that. Thank you, Kathy. We will try and stay on top of some of these things. For the purpose of this item on the agenda I think we can accept the plan as presented by Bill.

**Mentus household, 15 Gallant Road**

MR & MRS. MENTUS: Yes, we have not been asked to respond.

MR MENTUS: A couple of years ago when the Roadhouse started filling that land; the board may remember we approached the board about them filling it. They were ordered to cease and desist. At that time a ward councillor said all they were doing was "cleaning out the area". Since

then over the last couple of years they have filled in a huge area over there. Number one it is now actually higher than the grade of Pulaski Street. What happens when that rain falls is the drainage comes down the hill from the back of the Roadhouse. Instead of going through the parking lot and into that wetland it now can't because it is higher than the road. All that water is coming out on Pulaski Street. Which comes right down my driveway. The manhole covers at the end are overwhelmed with the volume of water. I have had the city out here and they have done some repair work. What is happening is that the water is pouring down my driveway. It is ruining my driveway. I have a worn-out crevasse in my yard from the water draining down my driveway and off into the wetlands. The city has been down and have seen it. They have tried to do some repairs for me. As long as this flooding continues, and the water is not allowed to drain the natural way I will continue to have this problem. I have flooding in my driveway. It is being washed away. You are welcome to come on my property any time to look. You can see where land is washed away around some trees. Some have already fallen. This is an ongoing problem. I am not an attorney, but I had heard there is a civil drainage law (Natural Right to Flow Law). If a property owner changes a property that causes damage to another property by not allowing the water to flow it's natural way; I am experiencing that. He stopped the water from draining into this wetland. Now it comes down the street and into my yard damaging my property and my driveway. That wetland area has always been wetlands. We have always had a buffer that we could not touch. I can't believe that parking lot is not within the 100-foot buffer. All of our properties somehow fall in it. I even have As Built plans from the city when the project was done. I was the first house to built here. Kathy was over earlier and I showed her the trees that are literally being uprooted from the water pouring over them and eroding the land.

MS MENTUS: My concern with him filling up that area, the pool of water that is there is going to get higher to local property owners in the area. Including ourselves and the neighbor next door. It will go into his backyard and cause more water problems here. It is not just an issue of wetlands. It is also an issue of the natural flow of water. I want to express that we have plans showing the outline of the wetlands. It does not match what they have given you. I have the plans in front of me and I would love to show you. It extends over to their property.

MR MENTUS: These are the original plans for the development of Westview and Gallant. These were the As Built Plans that were submitted to the city with the easements, sewer lines, pipelines and 100-foot buffers. The drainage that you spoke of earlier is actually the street drainage from Margin Street. It starts by the Bishop Fenwick School and comes down Westview across and into that wetland. The manhole covers that they are talking about (there are two); there is one right at the sidewalk of Pulaski Street and that wetland. Then inside the wetland there is another manhole cover that is also a part of that same pipe. What happened was when the bus lot filled in the water could no longer drain out that end and to the river. What happened was the manhole cover that is on the inside of that wetland would pop open every time it rained. It is flooding that area and that is what initially began that wetland area. They have been down several times where they tried to repair it. They even took the grated cover off and put a solid manhole cover on it. That would pop off in the heavy rains also. You are welcome to come on my property. You can physically see the damage being done on my driveway and my yard from rain runoff. I think that someone needs to address the fact that Right to Flow Water Law is not being adhered to. It is being balked.

**Discussion ensued.** The commission did not feel that the property was in the jurisdiction and told the property owners to follow up with other departments in the city or to hire a private attorney on their behalf. The residents were confused as to why the ConComm was unwilling to protect their properties, wildlife habitat and the wetlands. The residents reminded the commission that he is parking cars on the property without any treatment measures installed. It was unclear if stormwater standards were being met. The residents disputed the opinion of the commission that they do not have jurisdiction over what is happening on the property. The conversation ensued

regarding possible illegal fill changing the wetlands lines from the plans the abutters were referencing. The residents believe that the wetlands were altered illegally. **Discussion ensued.** The residents reminded the commission of all the wildlife that uses the resource (coyotes, deer, rabbits, turtles, ducks). The neighbors respectfully asked that the commission investigate the historic plans before a decision was made on the application. Regardless of the stormwater question, possible illegal alterations and other concerns raised by the residents the commission felt they could vote favorably on the application. The residents were upset that the item was voted on.

Motion to close the public hearing as made Mr. Wojcik. Seconded by Mr. Comak. (Adopted unanimously 6-0 with the commissioners still in attendance. Alternate member Ms. Green had voting rights).

Motion to issue a Negative Determination as requested in the application made by Mr. Wojcik. Seconded by Mr. Lazares. (Adopted unanimously 6-0 with the commissioners still in attendance. Alternate member Ms. Green had voting rights).

### **CERTIFICATES OF COMPLIANCE**

**9. A continued request for a FULL Certificate of Compliance as made by Frederick Hostrop (Neptune Engineering) on behalf 160 Main Street Realty LLC (Nikolay Polinovski) 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 # 9 was continued to a later date at a previous hearing. A motion was not necessary.

*Mr. Comak recused himself from item #10 discussion. Commissioner Vivaldi, Commissioner Green and Cavichio all were no longer present at the hearing. Only 4 commissioners were present to vote on the item.*

**10. 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.**

**Present:** Attorney John R. Keilty, Michael Douglas (Haven Contracting)

Motion to issue a Full Certificate of Compliance with the O&M in perpetuity to be held until William Paulitz signs off on the As Built Plan as made by Mr. Lazares. Seconded by Mr. Wojcik. The motion passed 4-0 with Mr. Comak recusing himself and no other voting members present).

**11. A request for a Full Certificate of Compliance as made by Sarah Ebaugh-Project Engineer (VHB) for DEP File No. 55-869. The project was upgrades and improvement to existing developed property located at 0 Warren St, 3 Berry Street and 0,15 & 18 Crowninshield Street, Peabody MA.**

Motion to continue as made by Mr. Lazares. Seconded by Mr. Wojcik. (Adopted 5-0 with all commissioners still present voting).

**ENFORCEMENT ORDER/VIOLATION ORDERS**

**12. 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** Continued at a previous meeting.

**OTHER AND DISCUSSION ITEMS**

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

Mr. Lazares gave a very brief update because of the time. An NOI will hopefully be prepared soon and submitted to the commission in the late fall or early winter.

• **MINUTES- March 24, April 21 and May 19 remotely held**

Motion to approve said minutes as made by Mr. Wojcik. Seconded by Mr. Lazares. The motion passed 5-0 with all commissioners present voting on the matter (3 commissioners left the hearing early).

• **Adjournment**

Motion to adjourn as made by Mr. Athas. Seconded by Mr. Wojcik. (The motion passed 5-0 with all members still present voting). The meeting adjourned at 11:36 PM.

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

---

**Chairman Michael Rizzo**