

# PALMER CONSERVATION COMMISSION

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Telephone 413-283-2611

4417 MAIN STREET  
PALMER, MA 01069

April 3, 2009

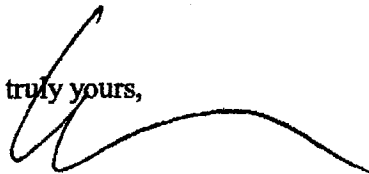
Charter Review Commission  
Palmer Town Building  
4417 Main Street  
Palmer, MA 01069

Dear Members of the Charter Commission,

The Conservation Commission does have an issue we would like to discuss with you, something we have discussed with the Town Manager. I have enclosed a letter to you describing this concern.

While our Commission does also have a meeting on April 7, 2009 we feel it is important to discuss this issue with you, so I am requesting to be placed on your agenda this Tuesday. If you are able to place me at the beginning of your meeting, I could discuss our points and then attend the rest of our meeting.

Very truly yours,



Donald Duffy, Member

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Dear Members of the Charter Commission,

As you may know, the Town, over many years, has provided for the preservation of some land for open space. A lot of this land is located in the northeast section of Palmer. This has been accomplished by purchases, receipt of gifts, and transfers of land taken by the Town for the lack of payment of taxes. Under the former method of town governance, the property was transferred to the "care, custody, and control of the Conservation Commission". As such, the land enjoys the same protections as park land. Also, more recently, a large piece of land, adjacent to some other land in open space was given to the Commission by deed, approved and signed for by the Town Council.

When land is accepted as a park or for use as open space, the Commonwealth requires that certain protections are placed upon it so that it won't be arbitrarily sold and not used for its original purpose. There is a procedure that needs to be followed if the town were to remove the land from its intended use. This requires certain votes on the local level and on the state level.

We find that the current Charter is less than clear about this subject and in fact, the language is somewhat confusing. We wish to add language to clarify the "the care, custody, and control" of Conservation lands in Palmer.

Currently, in the Charter, the Conservation Commission is not even referred to. Currently, the charter reads: "Section 3-3: Powers and Duties of the Manager (g) To be responsible for the rental, use, maintenance, repair of all Town facilities, except those under the jurisdiction of the school committee and the Palmer Public Library.

We would like to suggest a change of this section to include by addition after the word "Library" the following: "and land under the care, custody, and control of the Conservation Commission and land accepted under Chapter 179 of the Acts of 1987 of the Commonwealth of Massachusetts." The word "and" between school committee, and

the Palmer Public Library should also be deleted. The new section (g) could read: "To be responsible for the rental, use, maintenance, and repair of all Town facilities, except those under the jurisdiction of the school committee, Palmer Public Library **and the lands under the care, custody, and control of the Conservation Commission including lands accepted under Chapter 179 of the Acts of 1987 of the Commonwealth of Massachusetts.**"

We feel that it has been clear in the past that the land that has been bought, transferred, or gifted has been and remains open space land under our care and obviously no attempt has been made locally to change its status. Given that we feel that a change to the Charter is necessary so that it is clear that the land given to the "care, custody, and control" of the Conservation Commission remains under that status unless changed under existing state law. This would make what has been done in the past continue forth and be consistent under the Charter.

Very truly yours,

 (007)  
David Johnson, Chairman

Cc. Matthew Streeter, Town Manager

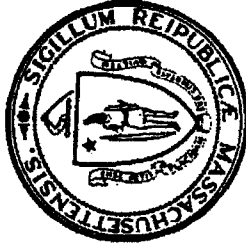
**ACTS**  
AND  
**RESOLVES**  
PASSED BY THE  
**General Court of Massachusetts**  
IN THE YEAR

**1987**

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**VOLUME 1**

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commissioner. The directors may adopt to for the conduct of the business of the deletions or other amendments thereto approval of a majority of the member provide for and fix the time and place of ch shall be at least quarterly, and of the of the officers, establish an executive a directors with such powers as the board d may provide for such other officers and deem advisable. The directors may fill ie next election. The board of directors usiness of the corporation. The executive itrol of the business of the corporation tors. Any action required or permitted to directors may be taken without a meeting te on the matter consent to the action in t or consents are filed with the records of Such consents shall be treated for all called and held meeting. The board of any committee thereof may participate in committee by means of a conference ication equipment by means of which all meeting can hear each other at the same h means shall constitute presence in person

aid chapter 44, as amended by section 3 of further amended by striking out the last place thereof the following sentence:- shall be elected for a two-year term, such ual meeting of the corporation, which shall ch time and place as may be designated by

44 is hereby further amended by adding the on shall have the authority to indemnify its employees and other agents to whatever ized by a by-law adopted pursuant to law. include payment by the corporation of g a civil or criminal action or proceeding n of such action or proceeding upon receipt on indemnified to repay such payment if he not entitled to indemnification under this ay be accepted without reference to the person to make repayment. Any such ided although the person to be indemnified a actor, trustee, employee or agent of the

No indemnification shall be provided for any person with respect to any matter as to which he shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his action was in the best interests of the corporation.

The corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or other agent of the corporation, against any liability incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability.

SECTION 4. Chapter 178 of the General Laws is hereby further amended by striking out section 34, as inserted by section 6 of chapter 569 of the acts of 1986, and inserting in place thereof the following section:-

Section 34. Any savings and insurance bank which converts or has converted to a federal savings bank charter and has its main office located in the commonwealth or which has merged with a federal savings and loan association which has its main office located in the commonwealth may continue to operate such insurance department in accordance with the provisions of this chapter.

Approved June 29, 1987.

Chapter 179. AN ACT AUTHORIZING THE DISCONTINUANCE OF CERTAIN PUBLIC WAYS IN THE TOWN OF PALMER.

Be it enacted, etc., as follows:

SECTION 1. The town of Palmer may, by a majority vote at an annual or special town meeting, abandon and otherwise discontinue public use of the following town ways: Brown road, from Rondeau road, northerly to the Ware-Palmer town line; Mountain road, from the intersection of Gates street, Old Warren road, and Mountain road, northerly to Rondeau road; a section of Olney road beginning fifty feet southerly of the former Olney house, then southerly to the intersection of Mountain road with Olney road; Tavern road, from Brown road, to the intersection of Tavern road with Bacon road; a section of St. John road beginning at a point one hundred feet south of the intersection of St. John with Rondeau road, then northerly to Bacon road including the Y fork at the Bacon road intersection; a section of Rondeau road beginning at a point on Rondeau road near the easterly side of the house located on the Camilleri's land (#1), then northeasterly to the westerly boundary of land owned by R.J. Pival (#18); and the McMaster road, an old road beginning on the south side of the Old Warren road at a point easterly of the intersection of St. John with Old Warren road and running southeasterly to the state highway Route 67 close by the house of Harry Johnson, which house is located north of the Massachusetts Turnpike.

ACTS, 1987. - Chaps. 180, 181.

**SECTION 2.** Ownership of such abandoned town ways shall vest in the town of Palmer. No ownership rights of any nature shall vest in any of the abutters to such town ways.

**SECTION 3.** Control of such abandoned town ways shall be within the exclusive jurisdiction of the conservation commission of the town of Palmer.

**SECTION 4.** The conservation commission of said town shall have the authority to adopt rules and regulations for the use as recreational ways of said abandoned ways, including, but not limited to regulating the type of use and access by motor vehicles, if any, together with the direction and time of such use, including the use and access by any and all abutters.

**SECTION 5.** This act shall take effect upon its passage.

Approved June 29, 1987.

**Chapter 180. AN ACT AUTHORIZING THE CERTIFICATION FOR TRANSFER OF ROBERT F. KELLEHER AS A POLICE OFFICER.**

Be it enacted, etc., as follows:

**SECTION 1.** The personnel administrator of the department of personnel administration shall certify Robert F. Kelleher for transfer from his position as a Registry of Motor Vehicles Examiner to police officer in the city of Somerville notwithstanding the fact that he passed a civil service examination for motor vehicle examiner after attaining the age of thirty-two; provided, however, that he fulfills all other requirements for certification and appointment as such police officer.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 29, 1987.

**Chapter 181. AN ACT AUTHORIZING THE CONTINUING EMPLOYMENT OF GABRIEL SPANLEY AND JOSEPH H. VENUTI, COURT OFFICERS IN MIDDLESEX COUNTY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provision of section seventy-two of chapter two hundred and twenty-one of the General Laws or any general or special law to the contrary, Gabriel Spanley, a court officer of the superior court department of the trial court in the county of Middlesex is

hereby authorized to perform the duties of his office at his own expense, including the state retirement deductions shall be made for service substitution retirement allowance equal to that of a person retired on said date.

**SECTION 2.** Notwithstanding to the contrary, Joseph H. Venuti, a court officer of the superior court department of the trial court in the county of Middlesex is authorized to perform the duties of his office at his own expense, including the state retirement deductions shall be made for service substitution retirement allowance equal to that of a person retired on said date.

**SECTION 3.**

**Chapter 182.**

Be it enacted.

Chapter 112 of the General Laws, section 80C, as amended, shall be amended to read as follows: "Section 80C. A person who is registered in nursing or as a nurse-midwife in the Commonwealth shall be deemed to be a qualified health care professional."