



TOWN OF PALMER

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CONSERVATION COMMISSION

PALMER CONSERVATION COMMISSION MEETING TUESDAY 2/5/2013 @ 7:00 PM

Members Present: Robert Ring, Donald Duffy, Dennis Cote, Peter Izyk, Angela Panaccione

Members Absent: Matt Trybus

Also Present: Mark Stinson (Mass DEP), Lori and Tim Anthony

Meeting Opens: 7:00 PM – Robert Ring (Chair)

7:00 PM Violation: Blake Lamothe – 103 Water Street

Lori and Tim Anthony attended tonight's meeting to inquire about the state of the Enforcement Order issued to Mr. Lamothe on 9/14/2012. They informed the commission the fence is still present and now there are piles of wood in the Riverfront Area and floodplain as well. Mr. Lamothe has also been digging in the area as well, possibly in a resource area. There are also pigs, chickens and goats on the property under poor conditions, and Mr. Lamothe is trying to claim agricultural exemption for the fence under the WPA. He has had agricultural agencies at the property viewing the "farm". Under the WPA, farming activities are only exempt if the farm is a "working farm in agricultural use". The property does not have a past land use of farming and Mr. Lamothe is not farming for a "profit".

Bob Ring updated the commission and the Anthony's on the violation. Currently Mr. Lamothe is being fined \$100/day for refusing to file for a fence he constructed on his property. Mr. Lamothe never accepted the EO or the determination of applicability. Bob spoke with the town attorney and the violation is going to housing court. PCC will contact the Anthony's with the hearing date as soon as it is set. Nothing more can be done until court.

7:15 PM Mass DOT DEP #256-0298: Stormwater Improvements for I-90

Mark Stinson attended tonight meeting to discuss the OOC issued by Palmer, for DEP # 256-0298. Mark had several concerns about the OOC issued, including:

1. **Repeating General Conditions:** Mark recommended we check our special conditions with the general conditions issued by DEP, since the order contained several repetitive conditions. He identified the areas of overlap between the general DEP conditions and our special conditions. If the conditions are too long and complex they often do not get read; our goal should be to keep them as short and simple as possible. Also, several conditions were basically the same; only worded slightly differently. This can also cause confusion.
2. **Outdated Conditions:** Mark also pointed out several of the conditions were outdated, and new standards or policies have been constructed, specifically dealing with stormwater.

Both DEP and MACC have examples of special conditions for local con com's to use that are up to date and reference the most current policies.

3. Consistency with Bylaws: Palmer has bylaws, so we should use them. Bylaws allow for increased protection of resource areas and often include additional resource areas not covered under the WPA (vernal pools, isolated wetlands, seasonal wetlands). Most town issue bylaw conditions with the standard OOC form, but others have gone even further and developed their own OOC specifically for bylaws (example: Hatfield). Using bylaws and writing conditions based upon the bylaws will also give the commission an edge with enforcement matters.

Mark then informed the commission the OOC should have never been issued to begin with because it did not meet the performance standards outlines in the regulations for:

- 1) Limited project: means a project may not comply with the regulations. This requires an alternative analysis, which was never provided.
- 2) Bank: a general performance standard for Bank is to maintain its stability. Covering 48' of bank in riprap does not provide stabilization. Riprap is bad and an outdated method of bank stabilization. There are several new methods for stabilization the applicant should have used.
- 3) Land under Water: again the proposal is adding stone to the bottom to stabilize the bed. Vegetation is better option for stabilization than stone
- 4) Stormwater: BMP for gravel wetland not followed by VHB. The design provided in the NOI was not consistent with the stormwater vol2 ch2 manual. Also the applicant did not provide an operation & maintenance report or a TSS worksheet, and standard 7 (redevelopment) was not met.
- 5) Bordering Land Subject to Flooding: Performance standards were not met. The compensatory storage requirements call for the amount lost be equally replaced and be incrementally equal to the theoretical volume of flood water at each elevation. The volumes lost are not equal to the volumes replaced at each elevation, in the NOI.
- 6) Riverfront Area: again, performance standards not met in the filling.

When Ring asked if we should use our authority issued under the act to void the order based on new evidence, Mark said not to bother. Mark informed the commission there was no need to issue a new OOC.

8:15 PM Administrative Matters

Chair Report: There are two people possibly looking to intern for PCC this spring. The first is a local Eagle Scout candidate, Alex LaMarch, interested in trail projects and the second is a UMASS student, Sarah Brodeur, looking to conduct research this summer. Bob, Angela and Alex took a tour of the local trailheads. Alex will be doing trail work (with the exception of Gate Street due to inaccessibility); specifically marking trails and clarifying the trails as well.

Member Report (Don Duffy): Don gave PCC a signed copy of his book, *Around Pottequadic*, for the office. The previous copy is missing. This book will provide excellent references on the history of the conservation lands and trails.

Agent Report: Angela could not find any trail markers in the office for Alex's trail marking project. Don will check at home for some.

Minute Approval: January 15, 2013

Motion made by Dennis Cote to approve the minutes from Tuesday January 15, 2013

Motion seconded by Don Duffy

No further discussion – vote taken: 4-0-0 – Motion Carries

DEP Comments on NOI's: Recent policy changes within the Mass DEP no longer permits circuit riders to provide comments of NOI's. Only NOI's flagged for "Auditing" will be commented upon. Palmer Con Com has relied heavily in the past on these comments. Comments provided allowed

Motion made by Don Duffy to send a letter to DEP in Boston, expressing Palmer's concerns over the lack of comments provided by DEP for NOI filings and requesting the comment policy be reinstated.

Motion seconded by Dennis Cote

No further discussion – vote taken: 4-0-0 – Motion Carries

Bylaws and Regulations: The commission discussed possibly updating the bylaws and regulations. They are outdated (passed 1988), and do not even include any Riverfront standards. Angela will add it to the Agenda for the next meeting for discussion.

8:45 PM Meeting Adjourned

Motion made by Don Duffy

Motion seconded by Dennis Cote

No further discussion – vote taken: 4-0-0 – Motion Carries

Sincerely Submitted

Angela Panaccione, Agent