



TOWN OF PALMER CONSERVATION COMMISSION

Palmer Town Building
4417 Main Street
Palmer, Massachusetts 01069

conservation@townofpalmer.com

Tharyn Nein-Large, Co-Chair
Sarah Brodeur, Co-Chair
Peter Izyk
David Cotter

Agent: Angela Panaccione

Telephone: (413) 283-2611
FAX (413) 283-2637

MEETING MINUTES

TUESDAY SEPTEMBER 6, 2016 @ 7:00 PM

Members Present: Tharyn Nein-Large (Co-Chair)
Dave Cotter
Peter Izyk
Angela Panaccione (Agent)

Members Absent: Sarah Brodeur (Co-Chair)

Also Present: Linda Leduc, Town Planner & Economic Development Director
Michael Marciniac, Chair of Palmer Planning Board
Donald Blais Jr, 2112 Palmer Street
Douglas Farmer, Turley Publications
David Haines, Haines Hydrological Consulting
Robert LeMaitre, Engineer
Nancy Brown, 530 Valley Road, Barre MA
William Brown, 530 Valley Road, Barre MA
Trevor Hermance, New Britain CT

Meeting Opens: 7:00 PM – Tharyn Nein-Large (Co-Chair)

7:01 PM Public Hearing: Proposed Amendment to 2015 Wetlands Regulations – Split Fees

Tharyn Nein-Large opened the Public Hearing on the proposed amendments to the 2015 Town of Palmer Wetlands Regulations. Hard copies of the split fee schedule were available for review at the hearing. A public comment period was open from July 5, 2016 to today. No written comments were received in the office to date.

Linda Leduc, the Town Planner & Economic Development Director and Michael Marciniac, Chair of Palmer Planning Board were the only public present for the hearing on the proposed split fee schedule and the amendments to the 2015 Town of Palmer Wetlands Regulations. Leduc supplied both oral and written comments regarding her concerns on the split fee schedule.

Her comments are summarized as follows:

The fees for commercial/industrial projects appear to be well beyond the area's thresholds and greatly above what any town in our region is currently collecting. Leduc reviewed fees from Ludlow, Wilbraham, Amherst, Brimfield, Belchertown, Monson, Granby and Ware. Belchertown and Monson do not collect any fees beyond what is required for filing with the DEP. Four communities collect some

type of nominal administrative fees where the fee structure is the same for both commercial and residential. Only two communities, Ludlow and Wilbraham, have a split commercial vs residential pay scale. Ludlow's Commercial or Industrial projects require a \$100 filing fee. Wilbraham charges \$500.00 "for each commercial or industrial project that involves resource areas or buffer zones plus \$1.00/sq. ft. of wetland disturbed plus \$0.04/SF of land subject to flooding or buffer zone disturbance."

Leduc felt it was imperative that these communities be comparable to Palmer both geographically and demographically. Palmer's Mean Household Income (MHI) is one of the lowest in the region and, in her opinion, should not even be compared to either Ludlow or Wilbraham. This proposed fee structure may be appropriate for a much more affluent community, but for Palmer it will have a detrimental effect, directly crippling any future economic growth.

Leduc also supplied two comparison examples of what a typical (no violations, replication/restoration/mitigation needed/proposed) 6-acre commercial development would cost under the proposed fee structure. Both include a prior ANRAD approval for a 750' wetland delineation, needing a 3-year OOC extension and do not consider other fee obligations such as peer review fees as allowed under MGL c44 § 53G. The cost under the new schedule would be \$8,900 versus \$3,900 under a single fee schedule.

Leduc also stated the requirement to have an approved RDA or ANRAD before applying for an NOI seems to be extraordinary, as well as potentially time and cost prohibitive and inquired what other comparable communities are practicing this.

In regards to the proposed stormwater review fee, the stormwater review and permit process has been in effect in town since 2008. The Planning Board is the permit granting authority and these permits are required for any new commercial development. A full peer review is conducted prior the approval of a stormwater permit. The concern is that the Conservation Commission is imposing its jurisdiction within an existing permitting process outside of the Wetland Protection Act. Imposing a review process within another Board's authority lends itself to potentially conflict with that Board's decision. The Commission is welcome to attend all Planning Board hearings and written comments, not only for stormwater but site plan, are expected. To now require a review fee for expected participation/services may appear to be a revenue builder.

Dave Cotter replied he felt sometime having additional review is a good thing as people may see something missed or have other solutions or recommendations not considered originally.

Leduc's final comment was administrative fees are to be reasonable and the amount charged is to effectively pay for services provided. It is difficult to understand the need for such an extreme increase between commercial vs residential applications. A residential project can be of the same size and have the same impact on resource areas as commercial. In fact, during her 10+ years of experience working in Palmer and as a member of the Belchertown Conservation Commission she has consistently witnessed greater detriment to resource areas from residential development. Unlike commercial development where extensive review is allowed under home rule, the state's archaic land-use legislation prohibits any oversight for SANR land division or 1-2 family uses.

Overall, Leduc emphasized how this proposed fee structure would severely inhibit economic growth in Palmer. It was her recommendation that the Commission modify it to create a single-fee structure similar to what other comparable communities are utilizing. The Commission instructed the Agent to work with Leduc to revise the proposed schedule accordingly.

Motion made by Peter Izyk to continue the Public Hearing on the Split Fee Schedule and the Amendments to the 2015 Town of Palmer Wetlands Regulations until Tuesday September 20, 2016 at 7pm

Motion seconded by Dave Cotter

No further discussion – vote taken: 3-0-0 – Motion Carries

7:40 PM Administrative Matters: New Member – Donald Blais

Motion made by Peter Izyk to send a letter to the Town Manager, Charlie Blanchard, requesting Donald Blais be appointed to the Conservation Commission

Motion seconded by Dave Cotter

No further discussion – vote taken: 3-0-0

7:45 PM Notice of Intent (NOI) DEP #256-0319: Ware Road – JT Brown; Earth Removal

A Notice of Intent, submitted by David Haines c/o JT Brown Nominee Trust for the expansion of an existing sand and gravel operation. Portions of the work will occur within the 100-foot Buffer Zone to the Bordering Vegetated Wetland. The limit of work has been established at a minimum of 50 feet from the wetland boundary. The location of the proposed project is Ware Road (MA Route 32), Palmer, MA 01069, and is also known as: Map 37 Lots 15 & 16.

Tharyn Nein-Large opened the hearing. The applicants William & Nancy Brown were present, as well as their wetlands consultant David Haines, of Haines Hydrological Consulting and their engineer Bob LeMaitre. No other public was present.

The site consists of a 4.25-acre portion of a 59-acre parcel of land located on the west side of Ware Street between Ware Street and the Massachusetts Central Railroad (MCR) in Palmer, Massachusetts. Most of the site is comprised of open abandoned farm fields supporting areas of upland and wetland meadow and shrubs. The rear of the site, between the abandoned Springfield Street Railway bed and the active MCR tracks, contained a wooded knoll and a pond surrounded by a shrub swamp. A portion of the knoll was removed as part of the current gravel pit operation. There are two intermittent streams flowing onto the site from Ware Street. These streams are mostly discontinuous and dry. They flow into a wetland system and spread out in sheet flow. A perennial stream flowing from the wetland east of the abandoned streetcar bed to the culvert under the MCR tracks is shown on the 1979 USGS map. This stream reportedly dries up but this has not been documented. The resource areas on the site are Bank, Bordering Vegetated Wetland, Land under Water, their associated 100-foot Buffer Zone, and potential Riverfront Area.

The previous Order of Conditions (DEP #256-0263) for the project/property permitted the current sand and gravel removal operation, the construction of an access road crossing a Bordering Vegetated Wetland (4927 SF), and wetland replication of 5968 ft². The project was completed including the replication of 9293 SF of wetland. This replication area is flourishing and contains diverse vegetation and habitats.

The Banks on the site consist of the edges of the perennial stream and intermittent streams near Ware Street and the edges of the pond between the MCR tracks and the abandoned Springfield Street Railway bed. The upper limit of a Bank is defined as the first observable break in slope or the mean annual high water level. The lower limit of a Bank is the mean low water level. No work is proposed in this resource area.

The Bordering Vegetated Wetlands on the site were delineated November 2015, by David Haines with numbered flags using the three technical criteria of vegetation, soils and hydrology. Wetland Data Forms were supplied to the Commission. The Bordering Vegetated Wetlands consist of wooded and shrub swamp, and wet meadow. Resource areas on the project site were confirmed on August 23, 2016 by the Conservation Agent.

The vegetation in the wetlands includes Red Maple, Large-leaf Poplar, American Elm, White Oak, Black Willow, Pussy Willow, Silky Dogwood, Winterberry Holly, Highbush Blueberry, Elderberry, Cinnamon Fern, Sensitive Fern, Marsh Fern, Jewelweed, Tussock Sedge, Soft Rush, Cattail, Reed Canary Grass, Lance-leaf Goldenrod and Sphagnum Moss. The soils in the wetlands range from dark brown sandy loam to black muck over mottled to gleyed sandy loam. No work is proposed in the resource area.

Land under Water on the site consists of the areas beneath the perennial stream and beneath the pond between the MassCentral Railroad tracks and the abandoned Springfield Street Railway beds. No work is proposed in this resource area.

The 100-foot Buffer Zone extends out into the upland areas on all sides of the wetlands. The work in this area includes portions of the sand and gravel operation.

There is a short section of perennial stream shown on the 1979 USGS map. It is shown flowing from the northwestern wetland beneath the abandoned Springfield Street Railway bed to the MassCentral Railroad tracks. During our initial site visits, the culverts had been dammed by beavers and the stream areas were under ponds. Since then the culverts have been cleared and the stream channel is now evident. This stream reportedly dries up, but four consecutive days of no-flow have not been documented. At this time, no work is proposed within any area that could be construed as Riverfront Area.

A review of the 2008 *"Massachusetts Natural Heritage Atlas"*, prepared by the Massachusetts Natural Heritage and Endangered Species Program, indicates that the site is not within the known range of any state-listed rare wetlands wildlife or priority habitats and does not contain any certified vernal pools. There is a potential vernal pool in the wetland to the north of the gravel pit.

The proposed work involves the expansion of an existing sand and gravel operation. Portions of the work in the sand and gravel operation will take place within the 100-foot Buffer Zone to the Bordering Vegetated Wetland. The limit of work has been established at a minimum of 50 feet from the wetland boundary. The operation will be phased over a five-year period and involves a sequenced stabilization restoration plan. Run-off from the work area will be directed to settling and infiltration basins and will not leave the gravel pit. The new area of sand and gravel removal will create a closed depression with no run-off into the adjacent upland or wetlands, and there will be no point source discharge.

Prior to the commencement of work, a row of staked hay bales or trenched-in siltation fence will be placed as shown on the plan. These barriers will be monitored and maintained until all work has been completed and the site is stable. There will be an extra 300 feet of silt fence on hand on site for emergencies. Upon completion of the work and stabilization of the site, all silt fence will be removed and disposed of properly and hay bales will be cut and spread as mulch.

All disturbed areas within the gravel pit will be stabilized according to the stabilization measures described on the plans. Disturbed soils are to be treated with loam, seeded and mulched as necessary. Through the use of appropriate sediment and erosion controls, site grading and soils stabilization measures, the proposed work will not impact the adjacent resource areas.

The proposed work at the J.T. Brown Nominee Trust site on Ware Street in Palmer, Massachusetts involves expansion of an existing sand and gravel operation. The sand and gravel operation will maintain a 50-foot undisturbed vegetated buffer between the operation and the wetland resource areas. The sand and gravel operation will be phased over approximately five years with yearly stabilization and restoration measures. Impacts to the adjacent resource areas will be prevented through the use of appropriate sediment and erosion control barriers and soil stabilization measures.

The Agent recommended continuing the hearing until a Certificate of Compliance was issued for the crossing and replication area permitted under the old Order of Conditions DEP #256-0263. She also recommended amending the new NOI to include area of earth removal that are still active or have yet to be restored as part of the original Order. She also recommended any future area proposed for excavation be included as well. The owner was hesitant to include the area since they would not be removed for at least 5-years.

The applicants were amenable to closing out the previous Order and continuing the public hearing on this NOI until that time. David Haines did have one question/concern about the required boundary marking on the previous order. The Original Order required the installation of 4'X4' concrete bounds every 50-feet along the limit of work. After a brief discussion, it was agreed upon the property owner would install lally-columns every 50-feet along the area of the original crossing, up to the current pit limits.

The main concern the Agent had at the end of the hearing was the fact this project keeps expanding. The entire point of requiring boundary markers as part of the original permitting was to keep the limit of work at what was proposed. The Commission overall goal is to permit the whole and complete project from the beginning, hence why they require limit of work boundary markers which are survey and recorded against the deed. It is to prevent instances like this where the applicant comes back 10-years latter to expand the current project. Given a parcel cannot have more than one open order at a time; it would be hard to issue another Order in 5+ years for the future expansion. The Applicant should propose all earth removal activities now and extend the permit in the future, not file again.

At this point the representatives will work on the request for a COC for the original order as well as install the boundary markers as discussed. The agent will conduct an inspection prior to the next hearing

Motion made by Dave Cotter to continue the Public Hearing until Tuesday October 4, 2016 at 7pm

Motion seconded by Peter Izyk

No further discussion – vote taken: 3-0-0 – Motion Carries

8:44 PM Administrative Matters: Minute Approval – August 16, 2016

Motion made by Dave Cotter to accept the minutes from Tuesday August 16, 2016

Motion seconded by Peter Izyk

No further discussion – vote taken: 3-0-0

8:54 PM Administrative Matters: Payable – Mileage \$248.94

Motion made by Peter Izyk to approve the payable to Angela Panaccione in the amount of \$248.94, for the reimbursement of travel expense for July & August 2016, from the Con Com Town Wetland Account

Motion seconded by David Cotter

No further discussion – vote taken: 3-0-0

8:58 PM Administrative Matters: Payable – Book \$187.00

Motion made by Peter Izyk to approve the payable to Angela Panaccione in the amount of \$187.00, for the reimbursement of the cost associated with the purchase of “Munsell Soils Book”, from the Con Com State Wetland Account

Motion seconded by David Cotter

No further discussion – vote taken: 3-0-0

8:59 PM Administrative Matters: Payable – Roberts Printing \$405.00

Motion made by Peter Izyk to approve the payable to Roberts Printing in the amount of \$405.00, for the printing of 200 of each of the 3 Trail Brochures (Color/Glossy/Thick Paper), from the Con Com Special Maintenance Account

Motion seconded by David Cotter

No further discussion – vote taken: 3-0-0

9:00 PM Administrative Matters: Payable – Roberts Printing \$290.00

Motion made by Peter Izyk to approve the payable to Roberts Printing in the amount of \$290.00, for the printing of 150 CPA Brochures, Wetlands Brochures and Yard Care handouts, from the general expense account

Motion seconded by David Cotter

No further discussion – vote taken: 3-0-0

9:01 PM Administrative Matters: Payable – Turley Publications \$116.79

Motion made by Peter Izyk to approve the payable to Turley Publications in the amount of \$116.79, for the printing of the two (2) legal advertisements for the public hearings on the amendments to the Town Wetlands Regulations, from the general expense account

Motion seconded by David Cotter

No further discussion – vote taken: 3-0-0

9:05 PM Emergency Permit: Foster Street Headwall Replacement – Palmer DPW

Motion made by Peter Izyk to ratify the Emergency Permit issued August 22, 2016

Motion seconded by Dave Cotter

No further discussion – vote taken: 3-0-0

9:10 PM Administrative Matters: Other Projects, Monitoring, Enforcement and Violations

1. Discuss Turnpike Parcel: Mass DOT has contacted the Commission again about the Turnpike Parcel. Stanley Slepoy is the new representative the Agent has been dealing with. He informed her MassDOT has a policy where they require fair market value for surplus land, and would sell the Commission the parcel at the bargain price of \$100,000. Unless special enabling legislation were to go through to direct a different process. The Agent explained they already tried to do this but DOT sent a letter to the Senate speaking against it. Slepoy asked for a copy of the letter from DOT, since he is not sure who would have sent it. Slepoy also mentioned the possibility of a possible land swap for the parcel; possibly between the Con Com, DFG and DOT. The Agent will explore this further, as well as the possibility of re-instating the enabling legislation.
2. Violation – Palmer Motorsports Park Septic System & Well: Septic system has been relocated, but they have only reached 60-foot offset, not the required 63-foot offset. The Commission will schedule a full Commission visit before the next meeting.
3. PRA First Street Land Transfer: Attorney Charles F. Ksieniewicz prepared a deed for the land transfer. The Agent will attend the PRA meeting on Tuesday September 13, 2016 at 6pm at the Palmer Public Library to get the deed signed. The Commission will then sign it at their next meeting on September 20, 2016.
4. Request to Amend Ordinance – Sale of Agricultural & Forestry Products: The Commission continued their discussion on amending the current Sale of Agricultural & Forestry Products

Ordinance to remove the \$10,000 revenue cap. Given inflation costs, as well as labor and equipment costs it has become nearly impossible to conduct any sort of management with the cap so low. Most surrounding towns which harvest forestry products do not have an income limit, including: Monson, Wilbraham, Sturbridge. Brimfield has the income limit at \$40,000/fiscal year (but Brimfield only has about 80 acres of conservation land to manage while Palmer has around 800 acres).

Motion made by Peter Izyk to request Palmer Town Council amend the current Sale of Agricultural & Forestry Products Ordinance to remove the \$10,000 revenue cap

Motion seconded by Dave Cotter

No further discussion – vote taken: 3-0-0

5. Culvert Assessment Update – Burlingame Rd: Palmer DPW requested the Agent assess the culvert on Burlingame Road, located between two parcels in Agricultural use. Upon inspection the Agent noted the 36” round culvert was almost completely filled in with sediment, allowing little to no water to pass through it. Additionally, due to the amount of silt and sediment on the downstream end there was no stream channel apparent. The Agent noted this culvert is a significant hazard and barrier, and should be replaced as soon as possible (at minimum cleaned out).
6. Site Plan Review Comments – 2 Breckenridge Rd: The Commission reviewed the proposed site plan for the commercial development of 2 Breckenridge Road, in Palmer. A positive determination was issued by the Commission in June, finding the existing 375-FT culverted buried stream to be non-jurisdictional under 310 CMR 10.58(2)(a)(3): Where a river runs through a culvert more than 200 feet in length, the Riverfront Area stops at a perpendicular line at the upstream end of the culvert and resumes at the downstream end.

Upon reviewing the proposed site plan for development several concerns arose regarding the current protective measures in place for the buried stream. Specifically, the concerns are: 1) How deep is the existing culverted stream and what is the condition of the pipe? 2) How does the stormwater infiltration basin in the southeast corner of the lot affect the downstream end of the buried stream? And 3) What happens if culvert is damaged during construction? The Agent will look into the concerns, as the project may require a permit if any work is proposed to the buried stream culvert.

7. Notice of Utility Line Maintenance – Bacon Rd: Massachusetts Electric Company d/b/a National Grid (MECO) submitted written notification to inform the Commission of necessary utility maintenance scheduled to be performed at Pole 59 located on Bacon Road in Palmer, MA (the Project). The Project is part of routine maintenance and structure improvements needed along the distribution line to support MECO's customer located on Bacon Road (the Nenameseck Sportsmen's Club). Specifically, the proposed work includes the replacement of existing Pole 59 located within the road shoulder of Bacon Road. The pole is located within 200-foot Riverfront Area associated with an unnamed tributary to the Ware River. All work will be completed from the existing paved roadway.

This work is considered normal overhead maintenance of an existing facility used in the service of providing electricity to the public. No change in use or increase in size will result from the maintenance work proposed. Therefore, MECO is planning to perform this work as exempt maintenance in accordance with the provision of the Massachusetts Wetlands Protection Act (MGL 131-40)1 and regulations 310 CMR 10.02 (2)(a)2 as well as the Town of Palmer Wetlands Regulations Section 1(1)1.

The Agent conducted a site visit to confirm the presence of resource areas. Based on the assessment and site visit, the proposed activities will be located within 200- foot Riverfront Area only. No other sensitive resource areas were identified within proximity to the Project area. Ground disturbance associated with the Project will be minimal and access & equipment staging to will be limited to the existing roadway of Bacon Road.

8. Emerald Ash Borer Presentation: Wednesday October 19, 2016, from 6pm-7pm at Library
9. Source 2 Sea Clean-up: The clean-up will be held on Saturday September 24, 2016, from 9am-12pm, at First Street/Swift River Greenbelt. The Agent has secured a \$50 gift card from Rocky's Ace Hardware to purchase gloves & trash bags.
10. CPA Update: Palmer Town Council voted tonight, September 6, 2016 at a special meeting to place the Community Preservation Act (CPA) on the November 2016 presidential ballot. The rate will still be at 1.5%, with the first \$100K exemptions. The Council has removed both the low income/low-moderate income senior exemptions. Public meetings are currently scheduled for:
 - Monday 10/3/2016, from 12:30pm-2:00pm at the Senior Center
 - Wednesday 10/12/2016, from 6pm-8pm at the Palmer Public Library Community Room
 - Wednesday 10/26/2016, from 6pm-8pm at the Palmer Public Library Community Room

Office Closed: Thursday September 8, 2016

Next Meeting Date: Tuesday September 20, 2016

Meeting Adjourned: 9:55 PM

Motion made by David Cotter to adjourn at 9:55 PM

Motion seconded by Peter Izyk

No further discussion – vote taken: 3-0-0 – Motion Carries

Sincerely Submitted,
Angela C Panaccione, Conservation Agent