

Holyoke Conservation Commission Meeting Minutes 11/21/2024 (Remote via Zoom)

Conservation Commission Members Present: Bernice Bowler (Chairperson), Jeffrey Horan (Vice Chairperson), Mary Moriarty, Rosemary Arnold, John Perdrizet, Patricia Normand

Conservation Commission Members Absent: Michael Dodge

Staff Present: Yoni Glogower (Holyoke Conservation and Sustainability Director), Maggie Herlihy (Administrative Assistant)

Members of the public present: Melissa Coady (Tighe & Bond, Inc.), Nick Kelling (Level Design), Sam Malafronte (P.E./ Solli Engineering, LLC), Cole Modestow (R. Levesque), Paul Fleming (Fuss & O'Neil), Mary Sullivan (Agilitas Energy), David Askew (Eversource Energy)

1. Call to Order

Chairperson Bowler called the meeting to order at 6:16 p.m., explained the protocols of remote meetings, and requested that visitors sign in via the chat.

2. Request for Determination of Applicability – Filed 10/25/24

Applicant: AE-ESS Holyoke, LLC c/o Agilitas Energy, Inc.

Representative: Level Design Group, L.L.C.

Location: 0 Bobala Road / Kelly Way (MBP 176-00-004A)

Description: Installation of a large-scale battery energy storage system (BESS)

Chairperson Bowler introduced the project, which is the installation of a large-scale battery energy storage system (BESS) and briefly discussed the site visit, which occurred on 10/31/24, and was attended by Chairperson Bowler, Commissioner Arnold, Director Glogower, and Ms. Herlihy. Mr. Kelling from Level Design and Ms. Sullivan from Agilitas attended the meeting to speak on behalf of the project.

Mr. Kelling shared the project plans while Ms. Sullivan discussed the project. The Applicant stated that they have tried to avoid wetland areas and believe that they have proposed a project that would not be subject to the Massachusetts Wetlands Protection Act (WPA). The parcel for this project is located at the corner of Bobala Road and Kelly Way, to the east of Schoolhouse Brook, a perennial stream, which flows from north to south throughout the parcel. The proposed project has approximately 16,000 square feet of disturbance. The construction is occurring in an undeveloped wooded area, which would require site clearing, the construction of a gravel access driveway, storm management systems, and the installation of the equipment on a concrete pad.

Chairperson Bowler noted that the wetland flags had been placed generously, in the favor of the Commission, and all the proposed work would be outside of the Commission's jurisdiction. Chairperson Bowler then opened the discussion for Commissioner questions.

Vice Chairperson Horan inquired whether there would be clearing of the forest outside of the 16,000 square feet footprint. Mr. Kelling confirmed that there would not be additional clearing. Commissioner Arnold inquired about the trash on the site and Ms. Sullivan stated that they will clean the site up when the site is purchased.

Commissioner Moriarty noted that the NHESP had indicated that there would be a take and inquired about the construction regarding the protected species. Ms. Sullivan stated that NHESP has instructed the Applicant to avoid construction work during the summer months, which is why the Applicant is aiming to complete construction during the winter, noting that Natural Heritage determined that their project is permitted as long as the Applicant does not disturb more than 20,000 square feet.

Commissioner Moriarty also inquired about whether Director Glogower would be notified regarding the start of construction on the parcel, and despite the project being an RDA, not an NOI, Ms. Sullivan stated that Agilitas would be happy to notify Director Glogower or anyone else of when they would be beginning construction. Commissioner Moriarty questioned what would happen to the batteries once they have reached the end of their life, to which Ms. Sullivan answered that it is a stipulation on their contract with Holyoke Gas and Electric that a decommissioning bond be created to provide financial surety that there is funding available to remove the batteries and restore the site to its original condition.

Vice Chairperson Horan inquired whether the Applicant had heard from the Holyoke Fire Department. Ms. Sullivan confirmed that the project underwent a permitting process where both the Planning Board and Fire Department weighed in, and that all stipulations have been met.

Chairperson Bowler stated that the Applicant is seeking a positive 2A, determining that the boundary delineations as proposed are accurate, a negative 1, indicating that the work area is not within wetland jurisdiction, and a negative 6, stating that the area is not subject to additional review and approval.

Chairperson Bowler inquired whether there were any public questions before the Commission voted. Hearing none, Vice Chairperson Horan motioned to approve the RDA for the installation of a large-scale battery energy storage system at 0 Bobala Road / Kelly Way, with a positive 2A, negative 1, and negative 6. Commissioner Arnold seconded the motion, and it was carried unanimously.

3. Request for Certificate of Compliance – DEP WE# 186-0280
Applicant: John Roche/ Holyoke Landing
Representative: Solli Engineering, LLC
Location: Lower Westfield Road (MBP 117-00-005)
Description: Commercial redevelopment within the Buffer Zone of Bordering Vegetated Wetlands.

Chairperson Bowler introduced the project, which is a commercial redevelopment within the Buffer Zone of Bordering Vegetated Wetlands and briefly discussed the site visit, which occurred on 11/19/24, and was attended by Vice Chairperson Horan, Director Glogower, and Ms. Herlihy. Mr. Malafronte from Solli Engineering attended the meeting to speak on behalf of the project.

Mr. Malafronte shared his screen to walk the Commissioners through the project, describing the proposed three phases of the project. Phase 1 was the construction of a Starbucks and Sleep Number building, Stage 2 was the construction of a Popeyes building, and Stage 3 was never constructed. Stage 3 is currently a grass lawn area; however, all utility and stormwater features were installed for the full development. Stage 3 was never developed due to a lack of tenant interest. Mr. Malafronte recognized that any further development on the property would require a new filing.

Director Glogower then discussed the site visit. The visit primarily looked at the grass areas and detention basin on the east side of the property which appeared to be functioning well. Director Glogower and Vice Chairperson Horan noted that the site is stabilized and has been significantly improved from the initial condition. Director Glogower noted that the silt fencing is still in place, and he recommended that it be removed. There is also trash debris throughout the parcel and Director Glogower again recommended it be removed.

Commissioner Moriarty visited the site separately and raised concern over the trash debris, inquiring if anything could be done to keep the area clean. Mr. Malafronte indicated that a new project will be proposed in the next couple of weeks, and a subsequent NOI submitted for the back lot. He suggested that the upcoming NOI would present a better opportunity to address this issue as all Conditions have been met, and in the meantime site maintenance could be increased. Chairperson Bowler and Director Glogower agreed that this recommendation seemed logical and decided that the Commission would phrase the new Conditions more carefully. Mr. Malafronte will be the engineer permitting the new project.

Commissioner Normand motioned to approve the Certificate of Compliance. Commissioner Perdrizet seconded the motion, and it was carried unanimously.

4. Request for Certificate of Compliance – DEP WE# 186-0297

Applicant: David Askew/ Eversource Energy
Representative: Tighe & Bond
Location: Transmission Lines 1428-1447 ROW
Description: Replacement of utility lattice structure with associated tree trimmings and tree removal within Riverfront Area and Bordering Land subjected to Flooding.

Chairperson Bowler introduced the project which is the replacement of a utility lattice structure and associated tree trimmings and tree removal within Riverfront Area and Bordering Land subjected to Flooding, and briefly introduced the site visit, which occurred on 11/19/24, and was attended by Vice Commissioner Horan, Director Glogower, and Ms. Herlihy. Ms. Coady from Tighe & Bond Inc. and Mr. Askew from Eversource attended the meeting to speak on behalf of the project.

Ms. Coady shared her screen to remind the Commission of the site plans and show photos taken before and after the project. The area has revegetated, as was observed on the site visit by Vice Commissioner Horan.

Chairperson Bowler asked for any Commissioner questions, of which there were none. The Chairperson then asked for public questions or comments. Chairperson Bowler asked Director Glogower his thoughts, and he confirmed that the site looked good, that plantings have survived and become well-established.

Vice Commissioner Horan motioned to approve the Certificate of Compliance. Commissioner Normand seconded the motion, and it was carried unanimously.

5. Public Hearing – Notice of Intent Filed 11/05/24 (DEP File #186-0309)
Applicant: Holyoke Community College
Representative: Fuss and O'Neill
Location: 303 Homestead Avenue (MBP 155-00-004)
Description: Entrance drive improvements within the Buffer Zone of Bordering Vegetated Wetlands and Bank.

Vice Chairperson Horan motioned to open the Public Hearing. Commissioner Normand seconded the motion, and it was carried unanimously.

Chairperson Bowler confirmed that the Conservation Department has received the abutter notices. The Chairperson then proceeded to introduce the project which consists of entrance drive improvements within the Buffer Zone of Bordering Vegetated Wetlands and Banks at Holyoke Community College. Mr. Fleming from Fuss & O'Neill attended the meeting to speak on behalf of the project.

Mr. Fleming informed the Commission that the project is still waiting to receive their DEP file number and comments. Mr. Fleming shared his screen, providing an aerial view of the campus, explaining the proposed campus improvements. The proposed project would create a new route/roadway on campus using existing impervious surfaces. The project would increase pervious surfaces by 50,000 square feet.

Mr. Fleming then discussed the wetland, which is the Tannery Brooke Stream, an intermittent stream running through Holyoke Community College. The wetland areas have been delineated. Mr. Fleming states that the proposed project is not occurring within the 50-foot buffer or encroaching any further than current conditions. The tennis court on campus would be transitioned into a parking lot. Mr. Fleming then paused for questions.

Vice Chairperson Horan inquired about the tennis court to parking lot transition. Using aerial imagery from 2023, it was evident that the tennis court was previously used for storage, likely during the replacement of the water infrastructure by the State, and is presently in disrepair.

Commissioner Moriarty stated that she would like to know more about the detention basin that is going to replace a portion of the parking lot. She also advocated for the Larch and Tulip trees that are in the area of the tennis court. She shared that many graduating classes have planted trees near the tennis courts and would like to know how this project will interact with those trees.

Chairperson Bowler asked Mr. Fleming to figure out which trees would need to be taken down so the Commission can look at the trees during their site visit. Mr. Fleming stated that he will follow-up with Chairperson Bowler's request. The Chairperson then requested that the Commission schedule a site visit before the next meeting. December 5th at 1:00 p.m. was chosen for the site visit, and Mr. Fleming will be responsible for coordinating parking with Holyoke Community College and will follow-up with Director Glogower.

Vice Commissioner Horan motioned to continue the Public Hearing. Commissioner Normand seconded the motion, and it was carried unanimously.

6. Public Hearing – Notice of Intent DEP WE# 186-0308
Applicant: LN Berneche, LLC.
Representative: R Levesque Associates, Inc.
Location: 37 Appleton Street (MBP 036-01-002)
Description: Proposed construction of a motor vehicle repair garage within the Buffer Zone to the Canal Wall of Land Under Water Bodies and Waterways.

Vice Chairperson Horan motioned to open the Public Hearing. Commissioner Perdrizet seconded the motion, and it was carried unanimously.

Chairperson Bowler confirmed that the Conservation Department has received the abutter notices. The Chairperson then proceeded to introduce the project which consists of a proposed construction of a motor vehicle repair garage within the Buffer Zone to the Canal Wall of Land Under Water Bodies and Waterways. Mr. Modestow from R. Levesque Associates, Inc. attended the meeting to speak on behalf of the project.

Mr. Modestow screen shared the site plans and walked the Commission through the proposed project. The proposed project is adjacent to a portion of the canal that has been filled in. Mr. Modestow noted that there will be no changes to the left side of the property. The applicant is proposing a 23,000 square foot motor vehicle garage. Mr. Modestow stated that the project is on the edge of the canal within the 100-foot buffer, but not subject to riverfront area. The project proposes two access drives and landscaping within the 100-foot buffer. Some temporary work would occur within the 50-foot buffer for utility connections, including sewer and drainage manholes. Mr. Modestow then opened the floor for questions.

Commissioner Perdrizet inquired about the slope of the roof, to which Mr. Modestow explained that the roof is bisected, and the water would drain towards the east and west. Vice Chairperson Horan asked about the BVW requirements and Mr. Modestow explained that there is no riverfront area, but there is a buffer zone that begins at the bank of the canal that the project must adhere to.

Chairperson Bowler asked that Mr. Modestow show the 50- and 100-foot delineation via the screen share. Chairperson Bowler noted that the lower portion of the building is within the 100-foot buffer zone. Commissioner Perdrizet noted that if the building were rotated 90 degrees it would be outside of the buffer zone. Mr. Modestow explained the infeasibility, as the parking area would remain in the buffer zone, and the functionality of the business requires that large pieces of machinery are able to be pulled through bays on both sides of the building.

Director Glogower inquired about the buffer zone line, which is from the old canal wall, and is being considered a bank. Director Glogower provided background from another project, where the Commission approved the same wetland boundary but considered it to be Bordering Vegetated Wetland, suggesting that this might merit closer investigation during the site visit. Regardless, the boundary of the Buffer Zone would not change.

The Commission scheduled a site visit on December 5th at 3:00 p.m., following the Holyoke Community College site visit. Commissioner Moriarty inquired whether Director

Glogower would want to be made aware of construction starting, and if so, if this should be added to the contractor's plans. Director Glogower stated his interest and will be included in the pre-construction conference, which will be in the Order of Conditions.

Vice Commissioner Horan motioned to continue the Public Hearing. Commissioner Perdrizet seconded the motion, and it was carried unanimously.

7. Request for Emergency Certification – Submitted 10/28/24

Applicant: MassDOT

Location: I-91 to I-90 Connector

Description: MassDOT has proposed selective trimming and removal of hazardous trees that pose a danger to the public along the shoulder of the I-91 southbound to I-90 connector ramp.

Chairperson Bowler introduced the Request for Emergency Certification and Director Glogower shared his screen to display the WPA Emergency Certification Form. The Applicant, MassDOT proposed the selective trimming and removal of hazardous trees that pose a danger to the public along the shoulder of the I-91 southbound to I-90 connector ramp. Director Glogower signed the Emergency Certification Form on 10/29/24.

Director Glogower shared that as proposed the project did not go into the wood line. He is looking for the Commission to ratify the form he signed. Chairperson Bowler opened the discussion for questions, which there were none.

Vice Chairperson Horan motioned to ratify Director Glogower's signature for the MassDOT Emergency Certification request. Commissioner Perdrizet seconded the motion, and it was carried unanimously.

8. Enforcement Order and Administrative Hearing – Issued 10/7/24 (continued from 10/24/24)

Location: Main Street (MBP 180-00-010)

Description: Construction debris stockpiling and vegetation clearing within Riverfront Area.

Chairperson Bowler introduced the Enforcement Order, which was continued from the Commission's 10/24/24 meeting. The Chairperson reminded the Commission of the previous site visit and informed the members that there was a site visit on 11/20/24 that was attended by Commissioner Moriarty, Director Glogower, and Ms. Herlihy.

Director Glogower shared his screen to show the photos he took on the site visit. Mr. Curran, the property owner had not sewn the restoration seed mix that was required

but had discussed this with Director Glogower previously. The two decided that Mr. Curran should wait until the following day to do so as it was anticipated to rain, and waiting would reduce the likelihood of the seed being washed away. Director Glogower continued through the photos, walking the Commission through the changes that were made. Director Glogower noted that he would go to the site on 10/22/24 to make sure the seed mix was sown and that the "Protected Area" signs were installed.

Commissioner Moriarty inquired if the straw wattles were stated as a permanent condition. Director Glogower responded stating that he did not believe so as the goal was to have something in place in the near-term. Chairperson Bowler inquired whether the Commission thought the vegetation would be a sufficient erosion control down the road. Commissioner Moriarty shared that she thought the back was sufficient with the jersey barriers, which had been placed approximately 5 feet from the slope, and the construction fill pulled back a proportionate amount, but was concerned about the side of the property.

Vice Chairperson Horan stated that he felt as though Mr. Curran had completed everything that the Commission had asked of him. Director Glogower noted that the slope of Mr. Curran's property will look different once the vegetation is established. Chairperson Bowler suggested that the Commission revisit the site next summer, while keeping the Enforcement Order in place, and continuing the Administrative Hearing until the second meeting in June, which would be June 26th, 2025. In the meantime, Director Glogower would attend the site visit on 10/22/24 to oversee the seeding and install the signs on the property. He will follow up with the Commission via email. The Commission stated their agreement with the proposed next steps.

Chairperson Bowler raised the issue of fines to the Commission. At the last meeting the Commission had decided to wait until the applicant had completed what the Commission had ordered. The fine for the first offense would be \$50.00. Vice Chairperson Horan inquired to Director Glogower if Mr. Curran has been cooperative, to which Director Glogower stated that Mr. Curran attended the previous meeting, complied with the Commission's orders, and was responsive over the phone. Commissioner Arnold inquired if Mr. Curran was supposed to attend the current meeting to which Director Glogower stated that Mr. Curran had been invited but had indicated that he had a family matter.

The Commissioners had varied ideas on the issue of fines. Some Commissioners felt that the fines should be by the book for the sake of consistency. Other Commissioners felt that Enforcement Orders should be taken on a case-by-case basis, as the precedent of operating in a certain way in the past should not be the reason for continuation to operate in a certain manner. These Commissioners stated that a fine should act as a disincentive, and if the Commission were to automatically impose a fine for every Enforcement Order, the Commission would lose some of their authority.

Chairperson Bowler proposed continuing the assessment of the fine to the second June meeting. The Commissioners noted that they are still waiting for Mr. Curran to complete certain actions. Vice Chairperson Horan noted that if the Commission motioned to keep the Enforcement Order open, the Commission members would be able to keep an eye on the property to see whether it is in compliance.

Commissioner Perdrizet motioned to continue the Enforcement Order and Administrative Hearing until the Commission's June 26th, 2025 meeting, and to continue the Commission's discussion on whether to consider or waive a fine. Commissioner Moriarty seconded the motion, and it was carried unanimously.

Commissioner Moriarty also raised the issue of the two adjacent lots to Mr. Curran's lot who are also in violation of the Wetland Protection Act, and stated that the Commission must also follow up with those properties

9. Enforcement Order and Administrative Hearing – Issued 10/29/24

Location: 639 West Cherry Street (MBP 202-00-036)

Description: Clearing of mature canopy trees within the Buffer Zone of Bordering Vegetated Wetlands without prior permitting or approval.

Chairperson Bowler introduced the Enforcement Order, which was issued 10/29/24 for the clearing of mature canopy trees within the Buffer Zone of Bordering Vegetated Wetlands without prior permitting or approval. Director Glogower shared his screen to display the Enforcement Order.

Chairperson Horan asked Ms. Herlihy to provide an update on the Enforcement Order. Ms. Herlihy stated that the Office sent Ms. Basile an Enforcement Order via Certified Mail, but USPS found that there was no authorized recipient available. Ms. Herlihy contacted the City of Chicopee who provided her with an alternate mailing address for Ms. Basile. Director Glogower proposed waiting until after the present meeting to send the Enforcement Order to the new address as to update the information for the next Commission meeting.

Commissioner Moriarty inquired whether the tree cutting had continued. Director Glogower stated that he and Ms. Herlihy had visited the site on 11/20/24 and had observed no new changes. Commissioner Arnold confirmed this information. Director Glogower stated that he initially heard about the tree-felling on this property from a concerned neighbor, who at the time had spoken with the loggers who stated that they had permits for the tree clearing. Director Glogower confirmed that no such permits had been issued.

Vice Chairperson Horan motioned to ratify the Enforcement Order and continue the Administrative Hearing to 12/12/24. Commissioner Moriarty seconded the motion, and it was carried unanimously.

10. Discussion and Vote on Email from Mayor Garcia Regarding Materials from the Municipal Boards and Commissions Meeting

Vice Chairperson Horan and Commissioner Perdrizet attended the Municipal Boards and Commissions Meeting on 11/07/24. The Mayor asked the Commissioners to vote to accept the Minutes from the meeting, and to receive the Social Media Policy and the Sexual Harassment Policy. Chairperson Bowler encouraged the Commissioners to review the policies. Additionally, the Chairperson stated that Conflict of Interest and State Ethics Training information is included in the email sent by Ms. Herlihy on 11/18/24 and the Commissioners should check to see when their certification expires.

Commissioner Moriarty motioned to approve the Minutes from the Municipal Boards and Commissions Meeting on 11/07/24 and acknowledge receipt of the Social Media Policy and the Sexual Harassment Policy. Commissioner Arnold seconded the motion, and it was carried unanimously.

11. Formal Vote – Minutes from 10/24/24 Meeting

Commissioner Arnold motioned to approve the Minutes from the 10/24/24 meeting. Commissioner Perdrizet seconded the motion, and it was carried unanimously.

12. Discussion – Upcoming Items for 12/12/24 Meeting

The NOI for the Log Cabin will be returning depending on if it is continued again.

The Office has received an NOI for a battery energy storage system at 361 Whitney Ave (Baystate).

There are three anticipated RDAs: one from the Revolver Club, one from the City, and one from the proposed fruit orchard at Mountain Road.

Commissioner Moriarty noted that she may not be at the 12/12/24 meeting as she will be out of town until approximately 6:00 p.m. and does not know if she will get back in time. Chairperson Bowler informed Commissioner Moriarty that if she misses the 12/12/24 meeting and the Log Cabin presents that she will not be able to vote on the matter as she also missed a Commission meeting on 3/14/24.

13. Mail/other items not reasonably anticipated by the Chair

Commissioner Perdrizet informed the Commission that there is going to be a City Holiday Party that the Commissioners are invited to attend. Ms. Herlihy will forward the information to the Commissioners.

Ms. Herlihy shared her screen to show the Commissioners a new tool that they can use to search for key words over the last five years of minutes. This tool is useful if you are trying to search for a keyword or topic but do not know exactly when the discussion occurred.

14. Adjourn

Commissioner Moriarty moved to adjourn at 8:26 p.m., and the meeting adjourned.