

The plaintiff and defendant parties acknowledge, accept and will abide by the following:

Powers of the Conservation Commission and the Board of Selectmen with respect to the Commission business:

1. Pursuant to M.G.L. c. 40, § 8C, the Conservation Commission has the sole authority to appoint and supervise, a director, clerks, consultants and other employees of the Commission, and may contract for materials and services within available funds insofar as the same are not supplied by other departments.
2. Pursuant to M.G.L. c. 150E, § 1 and M.G.L. c. 4, § 7(5B), the Board of Selectmen is the statutorily designated agent of the Town for union matters generally, and for negotiating the terms and conditions of employment of union employees specifically. The Board has the power to review hiring decisions of the Conservation Commission for positions covered by a collective bargaining agreement, for the sole purpose of ensuring compliance with the procedural requirements of the applicable collective bargaining agreement. In addition, the Board acts as the final step (before arbitration) in any grievances brought pursuant to the applicable collective bargaining agreement.
3. The Board of Selectmen does not have any supervisory or managerial authority over personnel appointed by the Conservation Commission pursuant to M.G.L. c. 40, § 8C.
4. The Conservation Commission, as a statutorily authorized regulatory body, has the responsibility to consider applications that come before it in a fair and equitable manner, in due compliance with the state Wetlands Protection Act (M.G.L. c. 131, § 40) and related regulations. The Board of Selectmen will not interfere with the Commission in its discharge of that responsibility.
5. Pursuant to M.G.L. c. 131, § 40, any person aggrieved by the Commission's order or failure to act on applications pending before it pursuant to its statutory authority has the right to challenge through an administrative appeal process to the Massachusetts Department of Environmental Protection (DEP), as established by state regulations. The Board of Selectmen shall direct persons with complaints relative to decisions on Wetlands Protection Act applications to the appropriate appeal process; any complaints of another nature shall be directed to the appropriate authority (e.g., Open Meeting Law violation to the District Attorney, ethics violations to the State Ethics Commission, etc.).

Power of the Board of Selectmen to investigate and/or remove for cause members of the Conservation Commission:

6. Pursuant to M.G.L. c. 40, § 8C, the Board of Selectmen is the statutory appointing authority for individual members of the Conservation Commission, and has the authority to remove members of the Commission for cause, after a public hearing, if requested.
7. Pursuant to M.G.L. c. 41, § 23B, the Board of Selectmen also has the authority to make formal investigations into the conduct and operation of any town department, including the Conservation Commission. Upon completion of such investigation, the Board shall submit a report to the town clerk, and such report shall be printed in the annual town report, as required by statute. Should the Board of Selectmen wish to take any actions to remove Conservation Commission members as the result of an investigation, such action must be for cause and comply with the procedural requirements of M.G.L. c. 40, §8C, as noted above.

Acknowledgments:

8. The Board of Selectmen acknowledges that the then Board's May 21, 2007 vote to dissolve and reconstitute the Conservation Commission as a whole was illegal and did not comply with the requirements of M.G.L. c. 40, §8C.
9. The Board of Selectmen acknowledges that on June 5, 2007 the then Board voted to initiate formal removal proceedings against unspecified Commissioners under M.G.L. c. 40, § 8C, and thereafter voted on May 19, 2008 to terminate such removal proceedings. Specifically, the Board voted on May 19, 2008, to "formally conclude any further investigation into complaints against the Conservation Commission and/or individual members of the Commission that gave rise to the Board's June 5, 2007 vote to commence formal removal proceedings, and to take no further actions relative to the removal of certain Conservation Commission members as voted on June 5, 2007." In so voting, it was the then Board's intent to resolve its consideration of complaints against the Conservation Commission and/or individual Commissioners that had been raised prior to the Board's June 5, 2007 vote. The Board of Selectmen further acknowledges that the basis for the June 5, 2007 vote was without merit. The Board agrees to take no further actions against the individual plaintiffs in connection with any issues that have been or could have been raised in connection with instant litigation.