



Regulatory Responsibilities of Massachusetts Conservation Commissions

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My Background With Massachusetts Conservation Commissions

- Served as Chairman of the Melrose Conservation Commission
- Enacted first local wetland protection ordinance in Melrose
- Now serving on the Sharon Conservation Commission
- Regularly present projects to Conservation Commission hearings in Massachusetts



History of Conservation Commissions in Massachusetts

- MA was the first state to establish local conservation commissions in 1957
- Primary responsibility to provide input on conservation for the town and protect areas for passive recreation.
- 1972 Commissions were given the responsibility for enacting the State Wetlands Protection Act.
- Commissions are still made up of volunteers (some municipalities provide a small stipend)

Commissions now spend much of their time issuing wetland permits

- The Massachusetts Wetlands Protection Act (310 CMR 10.00) is enacted at the local level
- 10,000 permit reviews yearly by MA Commissions
 - In Sharon we generally issue 8-10 Orders of Conditions
 - And issue numerous Certificates of Compliance
- Commissions can also enact local non-zoning bylaw



Home Rule in MA gives towns the ability to pass Local bylaws

- Regulatory Review consists of
 - Work in proximity to wetlands, flood plains, banks, riverfront areas, beaches and surface waters.
 - Storm Water Regulations
 - Wildlife habitat evaluations and vernal pool impacts
 - Erosion and sedimentation controls
 - Stream crossing standards
 - And more.



Commissions Working with MA DEP

- DEP receives a copy of every permit application
- Local commissions review and set conditions on the project, provided it meets the **performance standards** in the regulations
- Local commissions enforce permits
- If the project can not meet performance standards or is appealed for various reasons, DEP becomes the issuing authority – without a local bylaw this is where commission authority stops.

Building Support for Local Regulation

- Help inform the Public – especially on locally significant issues
- **Build consensus** among other town boards
 - critical for getting projects before the Con Com for review
 - and for helping with potential violations.
- Maintain support of other boards (this is a lifelong mission for the Commission)
- Have local council weigh in – to **avoid ambiguous regulations** and avoid challenges to bylaw application

The Good

The most effective bylaws:

- Provide clear guidance on performance standards including setbacks and no disturb zones
- Give Commissions agency to deal with environmental issues that are important to the community
- Allow Commissions to enact enforcement actions to stop and correct environmental damage

http://maccweb.org/resources_bylaws.html

The Bad

- Commission Bylaws are highly varied from town to town in Massachusetts
 - This can be a compliance challenge for multi-town projects and project within buffers of wetlands in adjacent towns
 - And may not be the best approach for ecological preservation

The Ugly

- The most frustrating regulations provide broad but vague authority to allow the commissions to decide on a “case by case” basis.
- Poorly written regulations can mean more challenges in Court.



Where Commissioners go for support

- MACC
- AMWS or other local wetland group for training
- SWS for broader wetland issues including mitigation/replication
- Adjoining towns
- Land Trusts

What Helps with Regulatory Review

- Having members with varied experience on the Commission
 - Wetlands specialist
 - Lawyer
 - Engineer
- Site visits
- **Support Staff**
 - Secretary
 - Agent with technical expertise

Thank You!

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