

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 7, 1994

To The Honorable, The City Council:

With reference to Awaiting Report Item No. 53, regarding overgrown weeds along the Charles River, please find attached a response from Alex Strysky, Director of the Conservation Commission, relative to this matter.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment



CITY OF CAMBRIDGE

57 INMAN STREET, CAMBRIDGE, MA 02139 • TEL (617) 349-4680

CONSERVATION COMMISSION

October 26, 1994

To: Robert Healy, City Manager

From: Alex Strysky, Director, Conservation Commission

Re: Council Order #14, dated 10/17/94
Overgrown weeds along the Charles River

Please find enclosed my reply to Ms. Rita Sabina Mandosa of Mt. Auburn Street, and relevant correspondence with the Metropolitan District Commission (MDC) in regard to the MDC's cutting of vegetation along the Charles River. These letters explain in detail the rationale behind the Conservation Commission's actions. I will also summarize the Commission's reasoning and actions in this matter below.

The Conservation Commission does not oppose the management of overgrown vegetation along the Charles River. Last year, however, the Commission informed the MDC that this activity is subject to the Wetlands Protection Act, and therefore requires an Order of Conditions from the Conservation Commission. The Commission's intervention last year occurred after a complaint was received about the manner in which the work was being performed. A visit to the site by the Commission confirmed that unnecessary impacts to the river and bank were occurring, including: a) the removal of some trees and shrubs in addition to weeds; b) inappropriate disposal of cut branches and weeds into the river and along the river bank; and c) aggravation of erosion-prone segments of the bank. In spite of this, the Conservation did not issue a cease and desist order. Instead, the Commission reluctantly allowed the MDC to continue the work without a permit, after meeting with an MDC supervisor and discussing ways that unnecessary impacts could be reduced. The Commission and the MDC also agreed that a vegetation management plan and a permit application (called a Notice of Intent) would be filed with the Conservation Commission prior to this year's weed clearing. It was my understanding that the MDC was able to complete nearly all the work it initially planned to perform along the Charles.

This summer an MDC supervisor called the Commission to request permission to again clear the weeds along the bank in the same manner as was agreed to last year. The Commission again reluctantly allowed the MDC to clear the bank, even though

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neither a vegetation management plan nor a Notice of Intent had been filed (the MDC completed the weed clearing work in late September). The Commission recently sent notification (enclosed) to Commissioner Bhatti of the MDC advising him that the Commission would not allow the weed clearing to proceed next year unless the required permit application is filed in compliance with the Wetlands Protection Act.

In summary, the Commission has never prevented the MDC from clearing weeds along the Charles River, and the requirement that the MDC file a Notice of Intent for this work does not mean that in the future the Commission will prevent the work from going forward. In the Commission's view, the MDC must obtain a permit for this work for two reasons. First, there are impacts of the work to the river and bank that can easily be minimized or eliminated by permit requirements. The Commission will also likely require the MDC to repair eroded portions of the river bank. Second, the Commission must implement the Wetlands Protection Act in a fair and consistent manner. The work proposed by the MDC clearly falls within the Commission's jurisdiction under the Wetlands Protection Act, and the MDC must comply, just as private citizens, Mass Highway, city agencies, and others do.

Ms. Mandosa's letter also made four specific points which were responded to in detail in the Commission's reply to her. To summarize these four points:

1. Sycamore trees

Ms. Mandosa suggested in her letter that tall weeds growing along the river bank trap polluted air along Memorial Drive, which has had a negative effect on the Sycamore trees. As I stated earlier, it is my understanding that the MDC has substantially cleared the weeds along the bank, including the past two years. The tall vegetation which remains appears to be primarily trees, not weeds. I also consulted with Jack Kelly, the City Arborist, about the causes of the poor health of the Sycamore trees. He did not believe that air is trapped along Memorial Drive to a degree significant enough to be causing damage to the Sycamores. Mr. Kelly listed the age of the trees, poor maintenance of the trees, road salt, and soil compaction as more significant threats to these trees.

2. Public Safety

Ms. Mandosa stated that the overgrown weeds may harbor potential robbers and rapists. Public safety is an issue which the Conservation Commission takes very seriously, but the MDC told the Commission that the weed clearing is a maintenance issue (to keep the growth of the weeds in check), and also intended to provide unobstructed viewing for the Head of the Charles Regatta. In addition, most of the vegetation along this stretch of the river is found very close to the water's edge, and does not obstruct pathways from view.

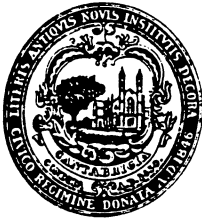
3. Birds and waterfowl

The MDC told Ms. Mandosa that the Conservation Commission objected to the weed clearing because it destroys habitat for wildlife. In her letter, Ms. Mandosa wrote that no waterfowl inhabit the area in question. However, the Commission has regularly observed ducks in the river seeking shelter in the vegetation along the river. The shade cast in the water by this vegetation is also likely to attract young fish and blueback herring, which were observed spawning in the general vicinity this spring.

4. Public enjoyment

Ms. Mandosa wrote that the overgrown weeds detract from the aesthetics of this portion of parkland. As stated earlier, the Commission is not opposed to the management of vegetation along the Charles by the MDC. The MDC must, however, present a management plan and permit application to the Commission so that impacts to the river and bank are reduced or eliminated, and to comply with the Wetlands Protection Act. The Commission also believes that the development of a management plan would be beneficial to the MDC itself. For the last two years, the MDC has not cleared these weeds until shortly before the Regatta. It would be more desirable if the MDC developed a more permanent solution for the maintenance of this parkland.

The Commission intends to remain in communication with the MDC to ensure that an Order of Conditions is issued for this work before the maintenance activity commences next summer.



CITY OF CAMBRIDGE

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CONSERVATION COMMISSION

October 21, 1994

Ms. Rita Sabina Mandosa
221 Mt. Auburn Street
Cambridge, MA 02138

Dear Ms. Mandosa,

Thank you for your letter dated October 10, 1994, in regard to the weeds growing along the Charles River. The Conservation Commission appreciates knowing that Cambridge citizens cherish the Charles River as much as members of the Commission do. I would, however, like to clarify the Commission's position and actions in regard to the MDC's maintenance of the Charles River parkland.

On a preliminary note, I would like to provide some general information about the Conservation Commission, and its duties, responsibilities, and purpose. Conservation Commissions were originally established in 1957 under the Conservation Commission Act, M.G.L. Ch.40 sec.8C, to protect and promote natural resource values, and were given the authority to purchase and manage lands. In 1972, Conservation Commissions were given the responsibility of administering the Massachusetts Wetlands Protection Act (WPA), M.G.L. ch.131 sec.40, and its regulations, 310 CMR 10.00. The WPA establishes the Conservation Commission's jurisdiction, which includes the 100-year floodplain, wetlands (including the bottom and bank of a river or stream), as well as a 100 foot Buffer Zone from the edge of a wetland boundary. The Commission issues permits for work in these areas to ensure that the important values of wetlands are maintained. These values are defined in the WPA as maintenance of water quality, storm and flood damage prevention, prevention of pollution, and fish and wildlife habitat. The WPA also states that every wetland is presumed to function significantly in each of these ways (though each presumption can be rebutted based on evidence). Apart from its regulatory responsibilities, the Commission works closely with other City departments, citizens groups, and the MDC, on environmental issues in Cambridge.

Members of the Commission are appointed by the City Manager for three year terms, based on their professional and personal devotion to, and expertise in, natural resources protection. The Commission has a long history of protecting, and advocating for the preservation and enhancement of Cambridge's environment, and

Ms. Rita Sabina Mandosa, p.2
October 21, 1994

has earned respect for its careful and well-reasoned actions and decisions. In light of the Commission's history and the responsibilities it regularly carries out, the characterization of the Commission as a "small very vocal, well-intentioned, but misinformed group" is not an accurate one. The Commission was able to cease work by the MDC not because of any lobbying effort on its part, but because the MDC recognized the Commission's legal responsibility in such matters.

In response to your letter, I would first like to clarify the reasons the Commission intervened last summer when the MDC began clearing the weeds and other vegetation along the Charles (for your information, I have also enclosed the Commission's correspondence with the MDC on this matter). In response to a complaint, I visited the area where the clearing was occurring. I found that trees and shrubs, and not just weeds, were being taken down in the area; branches were scattered along the parkland, banks, and in the river; and that the removal of vegetation along sections of the bank would accelerate the bank erosion that was already commencing due to insufficient regular maintenance. Since this activity was taking place in an area within the Commission's jurisdiction, and was impacting wetlands resource values, the Commission asked the MDC to temporarily stop work until representatives of the Commission and the MDC could meet on-site and discuss the problems which were in evidence. The Commission reluctantly, but in the spirit of cooperation, allowed the work to go forward without requiring the MDC to file a permit application, based on the understanding that the MDC would develop a maintenance plan before this summer, and obtain a permit from the Commission prior to this season's work. The Commission did not issue a cease and desist order (although that certainly was within the Commission's rights), and it was my understanding that the MDC was able clear essentially all of the weeds it had initially planned to.

I would now like to address the four categories of concern you raised in your letter.

The Sycamore trees

The Commission shares your affection for the Sycamore trees lining Memorial Drive, and also your concern about their health. However, there is good reason to believe that other factors are more responsible for their poor health than the "dangerously polluted tunnel" to which you attribute this. I consulted the City Arborist about the likelihood that polluted air trapped by the weeds could be significantly harmful to the Sycamores. It was his opinion that, under current conditions, there is sufficient air circulation along Memorial Drive to adequately flush out car exhaust. The arborist believed that more significant causes include poor maintenance of the trees, compaction of the soil around the trees due to the heavy human

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October 21, 1994

use of the area, road salt applied to Memorial Drive during the winter, and the advancing age of the trees themselves. The fungus which you refer to in your letter is also a principal factor in the Sycamore's declining health.

Public safety

Your letter states that weeds grow up to 30 feet high along the river. It is my observation that most of these taller plants are trees, rather than weeds, and that most of the bank is covered by much lower vegetation, due to the MDC's annual cutting of the weedy plants. In any case, public safety is certainly an issue the Commission takes seriously, but the safety of the public has never been offered as a reason for the weed cutting. Most of the weeds you refer to, moreover, are located in a thin strip directly on the bank of the river, and do not shelter any pedestrian walkways from public view.

Birds and waterfowl

I have observed waterfowl in this area with regularity; it appears that they prefer this site for the shelter provided by the vegetation along the bank. In fact, a Cambridge resident called my office last summer to object to the MDC cutting vegetation along the bank, voicing her concern that the area would no longer be attractive to ducks.

The bank vegetation is also important for fish using the river. Small and young fish seek shelter from predators in the shaded shallow water along the bank. And this spring, I observed many blueback herring along this stretch of river bank, congregating in the shadow cast in the river to spawn.

Public enjoyment

It is important to point out that the Commission does not necessarily oppose the idea of the MDC cutting overgrown vegetation along the bank, but rather the manner in which it was done; this is, quite simply, the basis for the Commission's actions on this matter. As described earlier in this letter, there was evidence that unnecessary, and entirely avoidable, damage had occurred to the bank and to desirable vegetation. The Conservation Commission's request that the MDC develop a maintenance plan, and formally file a wetlands permit application, is not just a matter of MDC compliance with the law. In developing a plan, the MDC would have to carefully consider how it wants the river bank to look, what kind of effort is involved in maintaining it that way, and what procedures need to be in place to ensure that no unnecessary damage to the river or its bank takes place.

I hope you would agree that the Commission shares your devotion to the Charles River parkland. If you'd like, your name could be added to the Conservation Commission's mailing list to receive

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advance notice of our meetings. I would also like to take this opportunity to make you aware (if you are not already) that the MDC has recently commenced a master planning process for the Charles River Basin. In recent years, the MDC has provided a public forum during its planning efforts to receive regular feedback from the public. If you'd like more information, please contact John Krajovic, the MDC's Charles River Basin planner, at 727-9693 x266.

I hope that I have addressed your concerns to your satisfaction; if not, I hope that I may have the opportunity to discuss this issue with you in more detail. Again, I'd like to thank you on behalf of the Conservation Commission for your sincere expression of concern.

Sincerely,



Alex Stryisky
Director

cc: (with enclosures)
Governor Weld
Cambridge City Council
Commissioner Bhatti, MDC



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CONSERVATION COMMISSION

October 21, 1994

Commissioner Ilyas Bhatti
Metropolitan District Commission
20 Somerset Street
Boston, MA 02108

Dear Commissioner Bhatti,

I am writing to you on behalf of the Cambridge Conservation Commission (CCC) in regard to the MDC's vegetation management procedures along the Charles River in Cambridge. For your reference, I am enclosing previous correspondence on this matter.

Last summer, the CCC informed your Central Services staff that the annual weed cutting along the Charles requires a permit under the Wetlands Protection Act, and that the MDC should file a vegetation maintenance plan with the CCC as part of a permit application. The CCC had found evidence of unnecessary and avoidable impacts to the Charles River bank and vegetation that should appropriately be addressed in a vegetation management plan and in an Order of Conditions that could be issued for this work. It should be noted that maintenance activities such as this are not exempt from the Wetlands Protection Act.

The CCC allowed your staff to proceed with the weed clearing without a permit after a site meeting at which I reviewed the proposed work with Marty Glavin of the Central Services staff. Marty and I were able to make modifications to the work that addressed the Commission's immediate concerns. However, it was the Conservation Commission's understanding that a management plan would be submitted prior to this summer's work in the area. Neither this plan, nor a permit application, have been submitted, and the work was again completed without the appropriate permit.

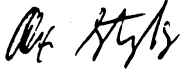
The Conservation Commission would like to work closely with your staff over the coming year to ensure that a management plan and permit application are completed before next year's work. However, the Commission will not allow the work to proceed next year unless an Order of Conditions has been issued.

I have also included, for your information, my correspondence with a resident of Cambridge on this matter.

Commissioner Bhatti, p.2
October 21, 1994

Please contact me at 349-4680 if I may be of assistance. As always, the Commission looks forward to working with the MDC on protecting and enhancing the Charles River and its parkland.

Sincerely,

A handwritten signature in dark ink, appearing to read "Alex Strysky", written in a cursive style.

Alex Strysky
Director



CITY OF CAMBRIDGE

57 INMAN STREET, CAMBRIDGE, MA 02139 • TEL (617) 349-4680

CONSERVATION COMMISSION

August 12, 1993

Commissioner Ilyas Bhatti
Metropolitan District Commission
20 Somerset Street
Boston, MA 02108

Dear Commissioner Bhatti,

The Cambridge Conservation Commission is concerned about the MDC's internal review process for work done on MDC properties within the jurisdiction of the Wetlands Protection Act; problems with this process were brought to our attention by unpermitted destruction of vegetation in the Eliot Bridge area by a crew from MDC's Central Services last week.

On August 3, following a citizen's phone call to our office, the Director of the Cambridge Conservation Commission, Alex Strycky, observed that roughly 300 feet of the bank of the Charles River within the 100 foot Buffer Zone had been cleared of vegetation, including trees. Apparently the clearing had been done in response to a request by the organizers of the Head of the Charles Regatta, bypassing both MDC planning offices and the requirement for filing a Notice of Intent with the Cambridge Conservation Commission for work on the Bank and within the Buffer Zone. This clear cutting was apparently planned to extend from the Larz Anderson Bridge to the Eliot Bridge. The cutting that was done has destroyed cover used by wildlife (particularly birds) and has created severely increased potential for erosion of the bank in that area.

Our understanding is that the MDC plans to hold an internal review of the incident. Mr. Strycky has informed me that all MDC personnel were responsive and cooperative when he spoke with them, and that work was immediately halted when the Central Services crew was told of the problem. We appreciate this attitude, but we are very concerned that the problem may recur.

It must be made very clear to all branches of the MDC involved with properties that fall under the protection of the Wetlands Protection Act that there must be a filing of a Notice of Intent for any pruning, clearing, digging, tree felling, or other activity, no matter who requests the work.

Commissioner Ilyas Bhatti
August 12, 1993
page two

The bank that has been stripped of vegetation must be stabilized and replanted. Bank stabilization is particularly important considering the additional degradation to be expected from the hordes of people attending the Regatta.

The Commission would appreciate the chance to comment on the MDC's vegetation management plan for the banks of the Charles River, to ensure our continued mutual understanding and cooperation on this shared responsibility.

Thank you for your assistance with this. I know we have a common goal of protecting the River and the City's other wetland resources.

Sincerely,

Cymie Payne

Chair, Cambridge Conservation Commission

cc: John Krajovic
Brian Kerims

Consent Agenda #8

S-493

Response to an Awaiting Report
Item No. Fifty-three, regarding
overgrown weeds along the Charles
River.

*for original see
1994 Sundries #417*

In City Council,

November 7, 1994

Placed in file