

PURPOSE AND DUTIES OF CONSERVATION COMMISSIONS

2.1 History and Intent

Massachusetts invented the municipal Conservation Commission. By the 1950s the need for protection of natural resources at the local government level has been recognized for many years. This need led to the formation of town forest committees, park commissions, playground commissions, and recreation commissions. Sportsmen's clubs, garden clubs, nature associations and charitable foundations had done much to conserve our vanishing natural resources. But a specific municipal conservation agency and authorization of conservation as a valid municipal purpose were needed before communities could acquire areas for passive use, rather than active recreational development.

In 1957 Representative John Dolan of Ipswich filed a bill in the Legislature which became the Conservation Commission Act (G. L. Chapter 40 §8C). The Conservation Commission Act (HB §18.9) enabled Massachusetts municipalities to establish Conservation Commissions. Commissions were formed through a vote of each local legislative body (town meeting or city council). During 1958, 12 towns accepted its provisions and established Conservation Commissions. Every city and town in the Commonwealth now has a Commission. Once a Commission is established, the municipality may not abolish it because the statute does not give it that power.

Although some Commissions have experienced difficulties in developing viable programs and earning consistent support, many have succeeded beyond their most optimistic expectations. Since community awareness seems to be more in balance with development pressures in suburban areas, accomplishments tend to be greatest there. However, there are also examples of outstanding success in urban areas and rural communities.

Conservation Commissions are a group of volunteers who work long hours to achieve community conservation goals. Over 100 Commissions have permanent full-time employees, many of whom are conservation professionals providing invaluable support to volunteer Commissioners. Many other Commissions have part-time or clerical staff. Overall more than half of Conservation Commissions have some level of staffing.

2.2 Legal Authority

2.2.1 Open Space Protection

The duties and responsibilities of a Conservation Commission are spelled out in the Conservation Commission Act (HB §18.9). Under this Act **a municipal Conservation Commission is the official agency specifically charged with the protection of a community's natural resources.** A Conservation Commission also advises other municipal officials and boards on conservation issues that relate to their areas of responsibility.

The first powers given to Commissions in 1957 focused on "promotion and development of natural resources... and protection of watershed resources." Under these powers Commissions exercise the functions described in Part III of this *Handbook*: planning, acquiring and managing open space, and encouraging and monitoring conservation and agricultural preservation restrictions.

Furthermore a Commission may accept gifts of money or land with the approval of the city council or selectboard. Such action does not involve the delays associated with obtaining town meeting approval. It is only through a Commission's actions that a municipality may qualify for state, Self-Help funds (HB §§8.1, 8.2). Chapter 40 §8C authorizes Conservation Commissions to inventory the municipality's natural resources and to prepare relevant maps and plans. Open Space and Recreation Plans are therefore coordinated by Commissions. These important documents are a prerequisite for securing Self-Help monies for open space acquisition.

2.2.2 Wetlands Protection

As the municipal focal point for environmental protection. **Conservation Commissions were given responsibility in 1972 for administering the Wetlands Protection Act (G.L. Ch. 131 §40).** Thus the Commission serves the community in a regulatory as well as a conservation capacity Under this law. Commissions across the state process over ten thousand applications every year for permits to do work in and near wetlands, floodplains, banks, Riverfront Areas, beaches and surface waters. The Wetlands Protection Act is described in HB Chapter 12 and the text printed in HB §18.34.

Over one-third of Massachusetts' communities have adopted local non-zoning ordinances or bylaws giving Commissions further power to protect wetlands. The state's highest court has approved the use of such municipal laws (HB Ch. 13). These are administered by Conservation Commissions.

Today most Conservation Commissions spend the bulk of their time hearing and conditioning wetlands cases. While this responsibility is vital, it often leaves inadequate time for open space protection and other matters. To allow Commissions to carry out their regulatory responsibilities without losing sight of their original mandate, many Commissions have set up open space, land management and other committees involving those members (and associate members) most interested in the Commission's original mandate.

2.2.3 Regulations

The Conservation Commission has the authority to adopt rules and regulations for the use of conservation land (G.L. Ch. 40 §8C). If a non-zoning wetlands bylaw gives it the power, the Commission may also adopt regulations to implement the bylaw/ordinance. (See also HB §4.1.1 and Ch. 13.) Such regulations have the full force of law; they are not merely "guidelines."

2.3 The Massachusetts Association of Conservation Commissions

Soon after the first Conservation Commissions were formed it became evident that they would benefit greatly from educational materials describing their duties and outlining methods of attaining their goals. Many of the early articles and pamphlets were written by a principal founder of the Massachusetts Association of Conservation Commissions (MACC), attorney Stuart DeBard.

The need to disseminate and expand the information in these materials, to explain state government and to discuss ways of improving the citizen's role in environmental protection, led to the formation of MACC in 1961. MACC's original mission also included encouraging and assisting the establishment of Conservation Commissions in every municipality; this was achieved in the 1980s.

MACC is a private, non-profit 501(c)(3) organization incorporated in the Commonwealth. **Our mission today continues to be to educate and support Conservation Commissions. We additionally advocate on behalf of Commissions and their interests.** Accordingly, MACC works for strong, workable, science-based laws and regulations regarding wetlands, other water resources, open space, and biological resources.

MACC is a voluntary association of Conservation Commissions and automatically admits as members "all Commissions duly established under G.L. Ch. 40 §8C." We are supported by Commission and other member dues, program and publication revenues, and grants and donations from public and private sources.

MACC is governed by a set of bylaws. A board of directors and officers are elected by the membership at an Annual Meeting. Current information is available at the MACC main office which has been located at

Massachusetts Audubon Society's Habitat Sanctuary in Belmont since 1988. A western Massachusetts outreach office was established in Hadley in 1992.

The MACC Annual Meeting, the largest annual gathering of local environmental officials in Massachusetts, includes about 40 workshops. An annual Fall Conference covers a relevant topic in depth. Question-and-answer sessions at these and other programs provide specific opportunities to discuss individual projects and cases. Commissioners representing nearly 90 percent of Massachusetts municipalities attend an MACC program each year.

In 1997 MACC introduced the first component of a comprehensive training program for Conservation Commissions and their staff, an eight-unit course: "Fundamentals for Conservation Commissioners." Sessions are to be offered frequently around the state.

MACC publishes this Conservation Commissioners' *Handbook* and a regular Newsletter, and writes and/or distributes over 100 other government, legal and environmental publications. A Telephone Helpline is available to members.

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