



**Environmental Stewardship Department/  
Conservation Commission**

**City of New Bedford  
Jonathan F. Mitchell, Mayor**

**Meeting Minutes of the Conservation Meeting of  
August 8, 2017  
Room 314, City Hall**

**Members Absent**

**Jacob Gonsalves**

**Staff Present**

**Agent Sarah Porter**

**Sandy Douglas, Admin., Coordinator**

Chairman Dixon called the meeting to order at 6:30 p.m.

**Roll Call of all Commissioner's Present: Chairman Craig Dixon, Vice Chairman Dennis Audette, Commissioner Paul Pacheco and Commissioner Chancery Perks**

**OLD BUSINESS:**

1. **SE49-0699 – (Continued from 7/18/17) - Request for Certificate of Compliance for Downey Street (Map 123, Lot 3) as filed by Claremont Companies.** Representative is Matthew J. White of Farland Corp.

Agent Porter advised the Commission that erosion controls are establish and the slopes have grown in with grass and the BMP is maintained and ready to turn over to the property owner. Therefore, the Agent recommended the issuance of a full Certificate of Compliance with ongoing special conditions #50, #51 and #52.

Commissioner Audette made a motion to approve a full Certificate of Compliance as recommended by the Agent with the ongoing conditions. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

2. **SE49-615 – (Continued from 7/18/17) - Request for Certificate of Compliance for 216 Bonin Street (Map 123B, Lot 183) as filed by Leslie Bochman.**

Agent Porter advised the Commission that Ms. Bochman did not appear at the onsite and the Agent found the fence to be gone and sign was down. The fence has since been replaced and the signs are up. Agent Porter recommended the issuance of a full Certificate of Compliance with ongoing conditions #50 and #51.

Commissioner Audette made a motion to approve a Certificate of Compliance as recommended by the Agent with ongoing conditions. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

## **NEW BUSINESS:**

- 1. A Request for Determination of Applicability as filed by Revere Copper Products, Inc. for property located at 24 North Front Street (Map 79, Lots 2, 4, & 7).** Applicant proposes to install plywood sheeting on the waterside of the bulkhead wall, installation of a slurry wall and excavation of petroleum impacted soil. Representative is Craig Ellis of BETA Group, Inc.

Mr. Craig Ellis of BETA Group was present on behalf of the applicant and advised that he was before this Commission approximately one month ago to discuss this project. They are proposing to put 2 3/4" marine plywood sheets on the bulkhead, work to be done on land side, excavate 50-60' trench, 10' at a time. The soil will be stockpiled inside the building and they will be using an existing onsite treatment system inside the building for dewatering.

Commissioner Audette inquired if they are going to remove anything on water side and if there is a boom proposed. Mr. Ellis replied they will not be doing anything in water and yes there is an existing boom that will stay in place during project.

Agent Porter advised that she has spoken with Mr. Ellis at length about changing methodology and putting plywood and then creating concrete wall and then excavating. Agent Porter stated that containment of the area is the most important and that will be done prior to excavation.

Agent Porter recommended the issuance of a negative determination of applicability with the following special conditions: excavated material is to be stockpiled on and covered by poly sheeting and stockpiled within the existing building prior to off-site disposal; water from dewatering activities is to be pumped to the onsite remediation system or will be pumped to a frac tank and disposed of off-site; absorbent pads are to be kept on-site to clean up any oily residue outside of the excavation area; absorbent and containment booms are to remain in the Acushnet River throughout the operation; straw wattles are to be placed along the top of the bulkhead to prevent any water or soils from entering the river. This is also for a positive determination that the work as described is within a resource area (riverfront) but shall not alter said resource area and therefore, does not require the filing of a Notice of Intent. The plans for approval are Figure 3 Site Plan dated 4/11/17, Figure 4 Building 12 Site Plan with Bulkhead Wall and Figure 5 Bulkhead Detail.

Commissioner Pacheco made a motion as recommended by the Agent with special conditions. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

- 2. A Request for Determination of Applicability as filed by Blue Harvest Fisheries, LLC for property located at 40 Herman Melville Blvd. (Map 59, Lot 41).** Applicant proposes to install a storm drain removal trap, relocate existing fence, gate and hydrant and construct new stairs for a new employee entrance. Portions of the work are proposed in the 100 year FEMA Floodplain. Representative is Rick Charon, P.E. of Charon Associates.

Mr. Rick Charon of Charon Associates was present on behalf of the applicant. Mr. Charon advised that there is an expired Order of Conditions and this property has exchanged owners twice and the Order of

Conditions was only caught when present owner purchased said property in September 2016 by title search. The work was never performed under the original Order of Conditions.

Mr. Charon advised that they paved an area on the south side of the building and added thirty parking spaces. They proposed two drainage system improvements as part of the original OC which required that they install high efficiency sediment traps that were never installed. Now they need to get a Certificate of Compliance to satisfy the original Order of Conditions.

Mr. Charon is proposing to install the high efficiency sediment trap (Downstream Defender) on the south side because that is where improvements were done. They would like to do this work under RDA and then request a COC on the original Order of Conditions. The collector system on the north side wouldn't change because the increased parking was never constructed here. On the south side the system picks up parking lot drainage from single manhole in front and picks up all roof drains. They are also proposing to add concrete stairs for a new rear entrance on the south side, and move some fencing outside of the buffer zone and move a hydrant to get better traffic flow. The primary work is to get sediment trap in place and will require continued maintenance.

Agent Porter advised that the best to her recollection this was an 2002 filing and at that time, Commissioner Kenneth Motta did a stormwater review and the downstream defender was added and there was an increase of impervious area.

Agent Porter recommended a positive determination that the work as proposed is within a resource area being 100 year flood plain but will not alter the resource area provided maintenance of the downstream defender and the catch basin sumps be conducted as described in Note M of the approved plan. The special conditions are that a cape cod berm be installed along the south side edge of the parking area and to notify the agent prior work commencing.

Chairman Dixon inquired whether there was anyone present who wished to comment on this matter. None heard.

Commissioner Audette made a motion for a positive determination as recommended by the agent with conditions as read. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

## **CONTINUED HEARINGS:**

1. **SE49-0745 – (C/continued from 10/18/16, 11/1/16, 11/15/16, 12/6/16, 12/27/16, 1/17/17, 2/7/17, 2/21/17, 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17, 7/18/17) - A Notice of Intent as filed by Paul Barton, Chairman of the New Bedford Regional Airport Commission for property identified as 1569 Airport Road (Map 123 - Lot 3, Map 122 - Lot 3, Map 124 - Lot 28 and Map 125 - Lot 22).** Applicant proposes to reconstruct and expand the terminal apron area with associated storm water management improvements and replace an existing culvert. A portion of this work is proposed in the Buffer Zone and within a Bordering Vegetated Wetland. Representative is Amanda Atwell of Epsilon Associates, Inc.

### **CONTINUED**

2. **SE49-0735 – (Continued from 3/15/16, 4/5/16, 4/19/16, 5/3/16, 5/17/16, 6/7/16, 6/21/16, 7/5/16, 7/19/16, 8/16/16, 9/6/16, 9/20/16, 10/6/16, 10/18/16, 11/1/16, 11/15/16, 12/20/16, 12/27/16, 1/17/17, 2/7/17, 2/21/17, 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17,**

7/18/17) - A Notice of Intent as filed by Anthony R. DeCosta d/b/a A-1 Asphalt for property located at 1861 Shawmut Avenue, New Bedford (Map 124, Lot 27). Applicant proposes improvements to a soil and aggregate re-cycling facility in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Rick Charon of Charon Associates, Inc. **CONTINUED**

3. SE49-0739 – (Continued from 6/7/16, 6/21/16, 7/5/16, 7/19/16, 8/16/16, 9/6/16, 9/20/16, 10/6/16, 10/18/16, 11/1/16, 11/15/16, 12/20/16, 12/27/16, 1/17/17, 2/7/17, 2/21/17, 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17, 7/18/17) - A Notice of Intent as filed by Michele Paul, Director of Environmental Stewardship for the City of New Bedford for property identified as Ruggles Street and Hathaway Boulevard (Map 69, Lots 86, 88-93, 96-100, and 125). The applicant proposes to conduct remediation activities to remove contaminated soils followed by construction of an athletic facility. Representative is David Sullivan of TRC Environmental. **CONTINUED**
4. SE49-0751 – (Continued from 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17, 7/18/17) - A Notice of Intent as filed by Eric DeCosta for property identified as 100 Duchaine Boulevard (Map 134, Lot 5). Applicant proposes to construct a new building, parking for company and employee vehicles and parking for additional trailers. Representative is Christian Farland of Farland, Corp. **CONTINUED**
5. SE49-0767 - (Continued from 7/18/17) - A Notice of Intent as filed by Geoff Rivinius of 1542 Padanaram Avenue, New Bedford (Map 17A, Lot 126). Applicant requests after-the-fact approval for the replacement of four pilings on an existing pier and the proposed maintenance of the pier deck in Clark's Cove. Representative is Geoff Rivinius.

Mr. Geoff Rivinius was present and advised that he has received the correspondence that this Commission was waiting for from Natural Heritage.

Agent Porter confirmed that Natural Heritage did not have any comments with regard to the work. Agent recommended the issuance of an Order of Conditions with the following special conditions: future maintenance consist only of the replacement or repair of the decking in perpetuity provided a letter is sent to the Conservation Commission describing the mean and methods of the proposed maintenance work two weeks prior to initiation; maintenance or replacement of pilings, bulkhead or revetment is not permitted under this Order of Conditions; driving of pilings is permitted and jetting of pilings is prohibited. The Plans for approval are Sheets 1 through 5 of 5 titled "Plan accompanying Petition of Gary E. and Michael P. Sylvia to maintain an existing timber pier, float, bulkhead and revetment in Clark's Cove in New Bedford, MA revised dated 9/21/2005.

Chairman Dixon inquired whether there was anyone present who wished to comment on this matter. None heard.

Commissioner Perks made a motion to issue Order of Conditions as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

## **NEW HEARINGS:**

1. **SE49-0768 - A Notice of Intent as filed by Edward Anthes-Washburn, Executive Director of the New Bedford Harbor Development Commission for property identified as Coal Pocket Pier (Map 24, Lot 204), Steamship Pier (Map 47, Lot 179) and Leonard's Wharf (Map 47, Lot 212).** Applicant proposes to reconstruct Coal Pocket Pier and conduct repairs to Steamship Pier and Leonard's Wharf in New Bedford Harbor. Representative is Briscoe Lang, P.W.S. of Pare Corporation.

Mr. Brian McCoy of Pare Corporation was present together with Edward Anthes-Washburn of New Bedford Harbor Development Commission.

Mr. Washburn advised that over the last two years they have been doing conditions surveys of all piers under Harbor Development Commission control and Coal Pocket Pier was the only one that received a failing grade. In February they applied for a million dollar grant from Seaport Economic Council to do these repairs. Coal Pocket Pier was built at the end of the 1800s for coal and then the steamships and it has served its purpose but the configuration does not match with what they need now. They are proposing to cut the pier in half which will allow them to dock more vessels and decrease the footprint in the resource area.

Mr. Brian McCoy advised that 90% of the existing timber piles are deteriorated and have to be demolished and replaced.

Councilor Dana Ribeiro was present and advised that she is very proud of this pier and wants to make sure they get what they need because they provide jobs to the state and attracts tourism to the City.

Mr. McCoy advised that they are proposing to remove a number of piles and replacing them with similar size piles and fender system along the wall. In the parking lot side they are proposing to remove and replace pavement to fill sink holes and restore the area.

Work is also being proposed at the Steamship Pier. There are a few issues with fender piles being broken or deteriorated. They will be replacing seven fender piles and installing two new ones with concrete deck.

Mr. McCoy stated that back in 2010/2011  $\frac{3}{4}$  of work was performed around perimeter of the pier at Leonard's Wharf and now needs 60' of repairs of tie rod connections. All work will be performed at low tide to have access to the wale. They will do 15' at a time per day and it will take approximately one week. Excavated material will be stockpiled on landside in the parking lot and surround parking lot with haybales and if needed dewatering will use silt sock with dewatering basin on shore with filter fabric.

Commissioner Audette inquired whether they have a construction plan including how the water will be protected. Do they have provisions in place and have they received time of year restrictions from DMF that is from January to May. Mr. Washburn added that they do not yet have a contractor yet, this project has to go out to bid when the permits are received.

Commissioner Pacheco inquired as to how many pilings will be removed at Coal Pocket. Mr. McCoy replied 156 plus the timber piles.

Agent Porter inquired as to whether they have construction specs that detail the means and methods of doing the work. Mr. McCoy advised that they have full technical specifications for the contractor including demobilization, mobilization, erosion controls, excavation, timber piles and timber framing. Agent Porter stated that is what Commissioner Audette is requesting. Chairman Dixon asked if the specs.

are in the Notice of Intent. They are not in the Notice of Intent and the Chairman requested that they be submitted.

Mr. McCoy stated there is no staging area for the contractor the work will be performed from a barge and that's where they will store all the materials. At Steamship Pier most of the in water work will be done by a diver.

Commissioner Pacheco made a motion to table this matter to the next meeting of 8/22/17. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

## **NEW BUSINESS CONTINUED:**

### **1. Agent Updates: MA CEC/Excel Recycling, Revere Copper Property-Nash Road Pond and surrounding wetlands/uplands**

#### **MA CEC/EXCEL RECYCLING**

Agent Porter advised the Commissioner that the Commission received a response from MA CEC. The Commission has had a chance to review this letter since the last meeting. Agent Porter has spoken with Attorney Pamela Lafreniere (the Counsel for the NBHDC) who understands the SER (State Enhanced Remedy) which is what the south terminal was built under. The SER was an off shoot of the superfund project for the cleanup of the harbor itself so they could do certain work and there were many different projects conducted under SER. All of these bypassed certain permitting requirements because they met with EPA's requirements for environmental protection but the SER was for the construction of the facilities not for the work that comes after the facility was built. The situation we have with CEC/Excel Recycling is they have land use on the south terminal area that admittedly (by their own letter) and the fact that they have divers to retrieve any scrap material that needs to be removed from the bottom, comes under the Wetlands Protection Act. These divers go down on a weekly basis during loading operations. This comes under the Wetland Protection Act because the scrap metal falls onto Land Under the Ocean.

Attorney Pamela Lafreniere stated that she spoke with Agent Porter and has reviewed the letter and what occurred and whether it is de minimis is up to the Commission. She is here on behalf of the NBHDC and happy to work with the Commission.

She also advised that Mr. Jeffrey Pontiff was present and the commission might want to hear from him this evening about Excel Recycling.

Mr. Jeffrey Pontiff advised that he is a realtor and also operates Whaling City Exhibition which provides harbor tours on Pier 3 that he's had for 19 years and also has three moorings on the harbor. From his experience, what happens when loading the ships the small stuff blows across the harbor. He has been sitting at Margaret's and has heard people from Fairhaven Shipyard complain that stuff blows over and lands over at Fairhaven Shipyard. Mr. Pontiff's concern is he has worked with city for years and HDC and it's come a long way and all it's going to take is someone coming in with a nice boat and have those filings land on their boat and it starts to rust and will destroy everything that they have been trying to accomplish in the past twenty years. He knows that have a form that they have to file with the Coast Guard when they hire divers to clean the bottom.

Mr. Greg Dolan from MA CEC was present and stated that their perspective is that they do not represent Excel. Excel is their tenant and the letter explains their position and would like to work with the city towards a resolution.

Commissioner Audette inquired of Mr. Dolan as to why the tenant wasn't present. He would like to see the Coast Guard reports and the divers' reports and feels that the tenant needs to be present before this Commission.

Commissioner Perks agrees with Commissioner Audette with getting copies of reports and speaking with the tenants.

Commissioner Pacheco would like to observe the loading and unloading of the vessels. Mr. Dolan advised that Commissioner Pacheco can certainly observe the operation. Commissioner Perks advised that he would also like to be present.

Commissioner Dixon stated that he would like to see how it happens from start to finish.

Commissioner Perks inquired as to what Attorney Lafreniere meant by it being de minimis. Attorney Lafreniere responded that whether their activity was de minimis and gives rise to the triggering of a notice of violation under the Wetlands Protection Act is up to this commission to determine. MA CEC said the activity was de minimis but it is up to the Commission to determine this.

Agent Porter advised that Commission has a couple of different avenues. The Commission can require a filing under the Wetlands Protection Act because we know that material falls over board and is blowing into the river which is within this Commission's jurisdiction. Agent Porter would like to see the results of their sampling that is required during rain events to see if they meet their criteria established by the EPA. Does the Commission like to do this under a request for Notice of Intent or Violation?

Chairman Dixon and the Commission agreed that they be required to file a Notice of Intent and insist that they bring in the storm water reports, coast guard reports and diving reports within a month. Agent Porter will cite Excel and copy MA CEC.

Commissioner Perks inquired as to how this matter was brought to this Commission's attention. Agent Porter advised that a letter was received from the Coalition that was sent to the State of Massachusetts.

Commissioner Audette made a motion to issue a Notice of Violation requiring a Notice of Intent be filed. Motion was seconded by Commissioner Perks. All in favor. Motion carries.

#### **REVERE COPPER (Nash Road Pond and surrounding Uplands/Wetlands)**

Mr. Craig Ellis was present and advised that Revere Copper is looking to donate this 29 acre wetland north of Nash Road to the City as open space. The southwest corner of the property has potential for parking and trails.

Jeffrey Pontiff of E. J. Pontiff Real Estate, Hamilton Street, New Bedford has been retained as listing broker on this property along with co-listing Collier International of Pennsylvania. Mr. Pontiff added Revere would like to do the right thing the pond feeds the pond down on Logan/North Front Street which was originally used as processed water for revere and they used to harvest ice on that pond. They would

like to save the stone building in front of Revere which was an old ice house and possibly turn it into a restaurant.

Commissioner Audette inquired whether the Nash Road parcel is a clean site because of the surrounding mills. Mr. Ellis responded that he doesn't think any due diligence has been performed.

Agent Porter added that Michele Paul suggested a Phase II be done with individual sampling taken in the areas. Agent also stated that is wondering what is causing all those *Phragmites* to live and it's usually a sign of some disturbance.

Commissioner Perks inquired as to who would pay for the Phase II testing. Agent Porter replied that the owner would probably be responsible.

Agent Porter added that this is a rather large parcel in the middle of the City, it borders the railroad and she thinks there are homeless encampments there and how would we create a trail network when it does not link to any other open space parcels. She asked the Commission how they would feel about obtaining this property.

Commissioner Perks stated that this would be a homeless hangout. He admires this site for what it was but the way it is now is probably the best it will ever be.

The Commission does not feel this is a piece of property they would like to take over.

Mr. Pontiff inquired if the Commission had any suggestions as to how to move that property.

Commissioner Audette suggested the Boy Scouts or contacting Greater New Bedford Vocational School, they have an Environmental Program.

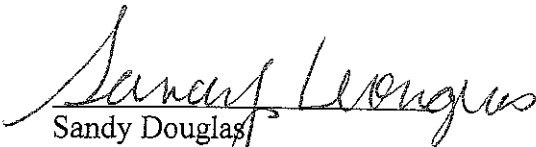
Commissioner Perks suggested possibly selling it for a carbon credit.

Mr. Pontiff stated that he might approach the Trustee Preservation.

## **2. General Correspondence**

Commissioner Audette made a motion to adjourn at approximately 8:10. Motion was seconded by Commissioner Perks. All in favor. Motion carries.

Respectfully submitted,

  
Sandy Douglas  
Administrative Coordinator