



**Environmental Stewardship Department/  
Conservation Commission**

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

**Meeting Minutes of the Conservation Meeting of  
May 7, 2019  
Brooklawn Senior Center**

**Members Absent**

**Paul Pacheco**

**Staff Present**

**Agent Sarah Porter, Conservation Agent  
Sandy Douglas, Admin. Coordinator**

**CALL MEETING TO ORDER**

**ROLL CALL OF COMMISSIONERS**

Chairman Craig Dixon, Co-Chair Dennis Audette, Commissioner Chancery Perks, Commissioner Peter Blanchard

**NEW BUSINESS:**

- 1. A Request for Determination of Applicability as filed by Susana Matos for property identified as 96 Seth Daniel Drive (Map 136, Lot 471).** Applicant proposes to install an above-ground swimming pool within the 100' Buffer Zone to Bordering Vegetated Wetlands. Representative is Susana Matos.

Mrs. Susana Matos was present and advised the Commissioners that she is proposing to install a 12' x 24' above ground oval swimming pool in her backyard. Mrs. Matos stated that the pool filter does not require backwash so there will not be any discharge from the pool into the wetland, this was recommended by the pool company since she abuts wetland property.

Agent Porter advised that there is a split rail fence located at wetland boundary and pool is within 25' no disturb which is the lawn. Recommended a negative determination that the work described is within the buffer zone and will not alter an area subject to protection under the Act and therefore said work does not require the filing of a Notice of Intent. Special Conditions are as follows: pool shall be a minimum of 6' from the wetland fence, all material excavated from the pool shall be disposed of in a legal upland location and no discharge of pool water into the wetland.

Commissioner Audette made a motion for a negative determination with special conditions as read by the Agent. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

- 2. A Request for Determination of Applicability as filed by Jonah Mikutowicz of AGM Marine Contractors, Inc. for property identified as 7 Fish Island (Map 60, Lot 4).** Applicant proposes

to demolish a commercial office and equipment storage building located in the 100' Buffer Zone and Land Subject to Coastal Storm Flowage. Representative is Richard Fitzgerald of AGM Marine Contractors, Inc.

Mr. Richard Fitzgerald of AGM Marine Contractors was present on behalf of the applicant. Mr. Fitzgerald advised that the existing building is currently being used for storage by one of the tenants, but it is in very poor condition and needs to be demolished.

Commissioner Audette inquired as to what precautions they are proposing to ensure that no debris goes into the water. Mr. Fitzgerald replied that they are proposing to work from the inshore side and work towards outshore and proposing to haul the material away as it comes down.

Agent Porter added that they are close to the bulkhead and if the commission wants protection on the bulkhead in case anything falls over. The commission suggested installing 12" diameter waddles.

Porter straight forward demo in the floodplain designated port area and recommended the issuance of a negative determination that said work does not require the filing of a NOI and work is in the buffer zone with the following special conditions that no demolition debris is to enter the Acushnet River or be stockpiled on the site, all debris is to be disposed of in a legal upland location and straw waddles to be placed on the west side of the bulkhead.

Commissioner Audette made a motion for a negative determination as recommended by the Agent with the special conditions as read. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

**3. SE49-0738 – Request for a Certificate of Compliance as filed by MIH1, LLC for property identified as 100 Duchaine Boulevard (Map 134, Lot 5).** Representative is Jack Tabares of Farland Corp.

Mr. Matthew White of Farland Corp. was present on behalf of the applicant and advised that their site supervisor is going to meet Agent Porter on site tomorrow to go over some things and increasing the size of the straw waddles to 12". Mr. White requested a motion to continue the matter based on the findings from tomorrow's onsite inspection.

Agent Porter showed the Commissioners picture of the site and is not sure if the straw waddles should be hay bales instead because the stockpiles are so tall, but she will speak with site supervisor about that. Is this going to remain stockpile area? Mr. White replied that he doesn't believe it will be.

Porter detention pond doesn't function as detention pond and it was never loamed and seeded and is not sure how the commission wants to deal with this and doesn't know if this is going to be part of the rail spur so should deal with it as it is now. Porter inquired whether the commission wants to send this to Nitsch for review.

Mr. White inquired whether this application has already been reviewed by Nitsch. Agent Porter replied it had. White what is commission expecting to get out of the review from Nitsch. Agent Porter replied they can confirm the as-built.

Audette this was originally supposed to be just for dirt? Mr. White replied that he wasn't sure. Audette feels that this stockpile has gotten out of control and it needs to get cleaned up. Mr. White main objective

of tomorrow's meeting should be pointing out areas of concern and clean-up. Porter it's a construction yard and doesn't have objective to pipes.

Commission wants stormwater basin loam and seeded. Audette if not happy with outcome tomorrow then send it to Nitsch for review.

Porter never received the Stormwater Management Operation Plan for the basin as required in the Order of Conditions.

Commissioner Audette made a motion to table this matter to the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

**4. SE49-0771 - Request for a partial Certificate of Compliance as filed by Tim Cusson of Parallel Products of New England for property identified as 100 Duchaine Boulevard (Map 134, Lot 5).**

Representative is Matthew White of Farland Corp., was present on behalf of the applicant. Mr. White advised that most of the work was not done and will not be done. Have constructed two large scale solar canopies above existing parking with additional access driveway with raingarden. Those are the only features constructed anything else proposed will not be constructed.

Agent Porter did go to the site a couple of days ago and mentioned the rain garden, he took site photos today showing conditions of stone diaphragm which has been removed and replaced and agent also requested calculation for rain garden which was submitted this afternoon. Mr. white is requesting a partial Certificate of Compliance for work that was done and close it out for work that was not done.

Agent Porter inquired whether the commission would like this application sent out Nitsch for review.

Commissioner Audette made a motion to forward this to Nitsch for review. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Agent Porter inquired of Mr. White as to how want to deal with the stockpiling of glass.

Commission agreed to issue an Enforcement Order for the stockpiling of the glass and are hoping that the basins were covered and are not full of glass. Mr. White wasn't aware of this stockpiling activity it was done without their knowledge.

Commissioner Audette made a motion to issue an Enforcement Order against Parallel Products. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Commissioner Audette made a motion to continue until the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

**5. SE49-0805 - Request for a minor modification as filed by Jean Fox of the Mass DOT. Applicant proposes minor modifications to track alignments from Nash Road to the grade crossing at Tarkiln Hill Road. Representative is Lars Carlson of VHB.**

Mr. Lars Carlson of VHB was present together with Ken Caputo from VHB. Mr. Carlson is requesting a minor modification to the order that was issued last year. There has been a design change relative to the track layout driven by new station location on Church Street. Track layout accommodates a second track

at the station that allows freight to pass through without being interrupted by the rail service. The change does not increase any permanent wetland impacts or stormwater management. Will be filing a NOI in the future for the station itself. There is one minor temporary impact increase related to a BMP that was determined to be appropriate based on the design and existing conditions.

Commissioner Audette inquired as to how long is the new track. Mr. Caputo replied that it is 1,200'.

Agent Porter advised that there is temporary wetland impact to small area which will be restored and there is 1200 linear feet of added track all in the ROW. It's up to the commission as to whether they want to approve it as a minor modification or have them request an amended order.

Commissioner Audette made a motion to accept as a minor modification. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

## **CONTINUED HEARINGS:**

1. **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, 8/8/17, 8/22/17, 9/5/17, 9/19/17, 10/3/17, 10/17/17, 11/7/17, 11/21/17, 12/5/17, 12/19/17, 1/2/18, 1/16/18, 2/6/18, 2/20/18, 3/6/18, 3/20/18, 4/3/18, 4/17/18, 5/1/18, 5/15/18, 6/5/18, 6/19/18, 7/3/18, 7/17/18, 8/7/18, 8/21/18, 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 1/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19) - 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**
2. **SE49-0810** – (Continued from 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 11/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19) - A Notice of Intent as filed by Norman Nichols for property identified as a 50' wide easement through Map 130A, Lot 720. Applicant proposes a stream crossing for a 20' wide paved drive which shall alter Bordering Vegetated Wetland, Bank and Land Under a Waterway. Representative is Richard Rheume of Prime Engineering.

Mr. Richard Rheume of Prime Engineering was present together with the applicant Norman Nichols. Mr. Rheume advised that they had originally proposed a 25' driveway into Acushnet with full underground utilities and it has now been modified to no more than two units to be built and been reduced down to 14' width. Replicating 1.6 to 1 were going to do more but DPI requested that area with pipe is not be replicated. The lot will be served by well water, so water service is not needed.

Commissioner Audette inquired as to how many lots is being proposed. Mr. Rheume replied they are proposing two lots in Acushnet. Mr. Nichols added that it's 3 ½ acres so there is only enough land for two house lots. Mr. Rheume added they are willing to put a deed restriction for only two lots.

Commissioner Audette inquired if it will be a cul-de-sac. Mr. Nichols replied that it will be a private driveway with maintenance road between two lots and will be long enough for emergency vehicles to turn around. The homeowner's will be responsible for maintenance of the road. Mr. Nichols has also met with the Acushnet Fire Dept. Audette this is an odd project because giving a right of way to the land.

Agent Porter advised that it is no longer subject to DEP Stormwater Standards. Agent Porter inquired if Mr. Rheume submitted hydrology calculations for stream crossing. Mr. Rheume replied he did not, and this will not impede the flow and brought the road down.

Agent Porter if want to send to Nitsch for stream water crossing standards. The Commissioners all agreed to forward it to Nitsch.

Mr. Mark Giorgi presented undated pictures to the Commission of his property. Mr. Giorgi he was under the impression that there was not enough dry land in New Bedford to replicate what is going to be destroyed two lots.

Mr. Rheume responded agreed that this is a wet meadow so that's why the pictures shows the land being wet and Mr. Rheume would like a stamped survey plan that the city put the sewer line in Acushnet from Mr. Giorgi.

Commissioner Audette made a motion to forward this to Nitsch for review. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Commissioner Audette made a motion to table until the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

3. **SE49-0815** – (Continued from 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19) - A Notice of Intent as filed by David Hebert of Braley Woods Condominium Assoc. for property identified as 1471-1475 Braley Road (Map 137, Lot 109). Applicant proposes to repave an existing driveway and parking lot and install a trench drain in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Paul Carlson, P.E. of InSite Engineering. **CONTINUED**
4. **SE49-0819** - (Continued from 3/5/19, 3/19/19, 4/4/19, 4/16/19) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 472). Applicant proposes to construct a single-family dwelling on each lot in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp. **CONTINUED**
5. **SE49-0820** - (Continued from 3/5/19, 3/19/19, 4/4/19, 4/16/19) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 477). Applicant proposes to construct a single-family dwelling on each lot in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp. **CONTINUED**
6. **SE49-0821** - (Continued from 3/5/19, 3/19/19, 4/4/19, 4/16/19) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 478). Applicant proposes to construct a single-family dwelling on each lot in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp. **CONTINUED**
7. **SE49-0824** - (Continued from 4/16/19) - A Notice of Intent as filed by Michele Paul Director of Environmental Stewardship for the City of New Bedford for property identified as Riverside Park (Map 99, Lot 81; Map 100, Lots 83 and 84) which is located on the east side of Belleville Ave. and the north side of Coffin Ave. Applicant proposes to remove invasive

species. construct a six-foot wide riparian walkway and plant native vegetation adjacent to the pathway. Representative is Stevie Carvalho of Farland Corp. **CONTINUED**

## **NEW HEARINGS:**

1. **SE49-0825** - A Notice of Intent as filed by Evan Slavitt of AVX Corporation for property identified as 740 Belleville Avenue (Map 112, Lots 88 & 252). As a result of the Phase III Remedial Action Plan, this project involves two remedial technologies proposed at the pilot scale to support development of a Phase IV Remedial Action Plan. The activities are in the Riverfront Area and Land Subject to Coastal Storm Flowage Representative is Marilyn Wade of Brown and Caldwell.

Ms. Marilyn Wade of Brown and Caldwell was present together with Adam Goda. Ms. Wade advised that MA DEP has completed Phase III and then asked to do pilot testing. Pilot testing will be in place and building pilot section 100' long. Will be back with NOI for full scale remedy, but it must be designed first.

Commissioner Audette inquired if water going to be placed into storage tanks and taken off site. Ms. Wade replied that was correct and all material excavated will either be stored in frac tank or containers and then disposed of off site. Commissioner Audette if there will be a cleaning station for the equipment. Ms. Wade replied that there will be a decontamination station set up outside of the resource area.

Agent Porter advised that she received an email from DEP Waste Site Clean-up acknowledging that AVX was in coordination with DEP on their waste site clean-up remedy. Ms. Wade added that the City of New Bedford sees everything in advance and is working with Michele Paul of the Environmental Stewardship Dept.

Agent Porter stated that she has not had an opportunity to go through everything to be able to draft the special conditions.

Commissioner Audette made a motion to table this matter to May 17<sup>th</sup>. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

## **NEW BUSINESS CONTINUED:**

1. **Enforcement Order – 1063 Almy Street**, Restoration Plan to be presented

The owners of the property, John Miguel and Linda Andrade, were present and submitted a restoration plan from Steven Chmiel.

Mr. Miguel advised that the property that they accidentally removed fill from was Mr. Edmund Shannon who passed away 2018 and Donald Perry is his attorney and handling his estate and attorney advised that it's okay to remove the material and in order to get letter of permission it will take a couple of weeks. Mr. Miguel just wants to fence this in and get this matter resolved and will restore the land as per the restoration plan.



Agent Porter advised that letter of permission from the neighbor is necessary, this Commission cannot authorize any activity without that letter. Commissioner Audette explained that this commission's hands are tied until he obtains that permission letter.

Agent Porter advised the property owners that the wetland scientist will guide them as whether it will be a straight cut or slope.

Mr. Miguel would also like to put some crushed stone from corner of house to fence is and put a barnyard post fence to the street, to clean up that area.

Agent Porter recommended a motion to ratify the Enforcement Order. Motion to ratify Enforcement Order was made by commissioner Audette. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Agent Porter advised that they have a pool permit with building department right now and would like to know whether to sign off on it. Chairman Dixon doesn't feel like an after the fact RDA is necessary if they get the restoration back to where it was and get letter from neighbor giving permission. Agent Porter will call Donald Perry, Esquire.

Commissioner Audette suggested once letter of authorization is obtained the property owner can start his restoration.

Mr. Miguel added that there is a tree that is falling and pieces of it have fallen on Linda's vehicle and would like to take down that tree. Agent Porter will come by the property to look at the tree.

Mr. Miguel inquired whether he can place the stone as he proposed, the Commissioners agreed.

Agent Porter recommended the approval of the wetland restoration plan as prepared by Steven Schmiel and that the work be completed by June 15, 2019. Mr. Miguel agreed to have the work completed by June 15, 2019. Agent Porter will speak with Mr. Perry.

Commissioner Audette made a motion to approve the restoration plan with condition to start as soon as the letter of authorization from Attorney Perry is received. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

2. **Notice of Violation – 3782 Acushnet Avenue** – owners requested to appear. **ON HOLD UNTIL 5/21/19**
3. **Shawmut Ave E.O.** update

Agent Porter advised that the Enforcement Order came back from Fall river Ready Mix. She spoke with John Flor and he said to send it out certified mail and regular mail and if it does not come back then know that they received it. Agent Porter will send out another Enforcement Order because the first one expired and sent it to the address listed on the Secretary of State's Site on Tripp Street, Fall River, MA. The certified mail was never accepted so will now have to have them served by the Constable The cost for the Constable's service is \$25.00. The Commissioners agreed to having it served by a Constable.

Agent Porter will give them an additional thirty days since last order was until June 7<sup>th</sup>.

Commissioner Audette made a motion to issue another Enforcement Order. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

#### **4. Briarwood Court – update**

Agent Porter advised that she sent letter to the Araujo Brothers and nothing happened because letter was sent to the wrong brother. The neighbor called again because the neighbors are continuing to dump on that site. The Araujo brothers do not feel that they are responsible to clean it up since they are not the ones doing the dumping.

Chairman Dixon suggested sending another Enforcement Order. Agent Porter agreed to sending out another Enforcement Order and request that they appear at the next meeting. Agent Porter will send it to both brothers. Agent Porter suggested sending a letter to all the neighbors on Briarwood Court. The Commissioners agreed to sending a letter to all the neighbor.

Commissioner Perks made a motion to issue an Enforcement Order. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

#### **5. Agent Updates/General Correspondence**

Agent Porter advised that construction starts Monday for the rail, and she will be out there.

#### **6. Community Preservation Act Update**

Agent Porter advised that Paul Pacheco's term has expired on CPA and he has notified the Mayor's office that he will have to be re-nominated on behalf of the Conservation Commission.

#### **7. Buttonwood Pond Annual Report**

Agent Porter advised that Buttonwood's Annual Report has been received describing what they did last year from Solitude. Commissioner Audette stated that he is not happy with it and pond is overflowing now and they are talking about putting up a fence and putting up some strobe light to scare geese away and that he still has a sour taste with that company. Agent Porter advised that they do not have a contract. Commissioner Audette commented that if they do come back, they cannot just throw away dead fish. Agent Porter emailed Mary Rapoza today and are working with another company and there is nothing proposed for this year.

**Commissioner Perks advised that he is, once again, an employee with the City of DPI operating at treatment plant and will have to recuse himself from DPI applications.**

## **ADJOURN**

Commissioner Perks made a motion to adjourn at approximately 8:42. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Respectfully submitted,

---

Sandy Douglas, Administrative Coordinator