



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

**Meeting Minutes of the Conservation Meeting of  
May 21, 2019  
Brooklawn Senior Center**

**Members Absent**

**Chancery Perks**

**Staff Present**

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

**CALL MEETING TO ORDER**

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

**ROLL CALL OF COMMISSIONERS**

Chairman Craig Dixon, Vice Chair Dennis Audette, Commissioner Paul Pacheco and Commissioner Peter Blanchard

Agent Porter advised the public that the matter of Parallel Products was continued per their request. The reason they are on this agenda doesn't have to do with the MSW Facility it has to do with them requesting a partial Certificate of Compliance for work they previously did on the site. The COC was continued because con com issued an Enforcement Order for glass stockpiling in the 100' buffer zone and cannot issue COC until that issue is resolved. We have copies of a letter from the Mayor that he wrote to Secretary of Energy & Environmental Affairs for anyone interested.

**OLD BUSINESS:**

1. **SE49-0738** – (Continued from 5/7/19) - 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. Jack Tabares of Farland Corp. was present on behalf of the applicant. Mr. Tabares is requesting a Certificate of Compliance for the drainage pond this had been continued for additional information which was Operational and Maintenance logs and photos have been submitted, detention basin, hydroseeding done and haybales re-staked where needed and respectfully requested a Certificate of Compliance.

Agent Porter advised that they did have some outstanding issues they needed to submit Operation and Maintenance form which they have done, seeded detention pond and Scott Turner has reviewed and

commented that he is all set with the situation, they have cleaned the sedimentation basin and put new haybales around stockpile areas. Agent Porter recommended the issuance of Certificate of Compliance with ongoing conditions #19 and #52.

Ms. Carol Strupczewski of 1075 Braley Road was present and requested that the Commissioners speak louder.

Tracey Wallace of 75 Stephanie Place was present and questioned when original Order of Conditions was issued. Agent Porter replied it was issued on May 29, 2016.

Commissioner Audette made a motion to issue a Certificate of Compliance with special conditions as read. Motion was seconded by Commissioner Perks.

**2. SE49-0771 – (Continued from 5/7/19) - 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.**

Agent Porter advised that Mr. Matthew White submitted an email earlier today to the Conservation Commission requesting a continuance of this hearing seeking it be rescheduled to the June 18, 2019 and provided an update: new glass material is no longer being stockpiled under the solar canopies, existing glass material is in the process of being removed from the buffer zone and expected to be completely removed within next 60 days and once removed drainage structures will be cleaned and free of debris from all stockpiling materials.

Commissioner Pacheco made a motion to continue to June 18, 2019. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

## **NEW BUSINESS:**

**1. SE49-0755 – Request for a minor plan modification as filed by MA DCR for property identified as State Pier. Representative is Kevin Buruchian of GEI Consultants.**

Mr. Kevin Buruchian of GEI Consultants was present and advised that this project was approved last year and due to funding, they were not able to secure entire east face and looking for to now replace 27 piles and then do repairs to concrete deck.

Chairman Dixon inquired as to what's the change being proposed from the original application. Mr. Buruchian replied that they are adding 6 piles on south side and two concrete repairs.

Commissioner Audette inquired as to the time of year. Mr. Buruchian are hoping to start as soon as possible and done by September. Commissioner Audette how much of it done in the water. Mr. Buruchian all of it is being done in the water.

Agent Porter advised that they are just proposing the interim piles that they need until get full funding and not any different than what was permitted.

Agent Porter recommended the acceptance of a minor modification.

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

2. **SE 49-0730 Request to Appear before the Commission regarding an expired Order of Conditions for property identified as 241 Duchaine Boulevard.** Representative is Bruce Hebbel of the City of New Bedford Department of Environmental Stewardship.

Mr. Bruce Hebbel of the City of New Bedford Department of Environmental Stewardship was present and advised that the original order expired on April 22, 2019 and the work is 95% complete with some minor restoration left to do and showed Commissioners pictures of remaining work.

Commissioner Audette inquired as to how long of an extension they need in order to finish the project. Mr. Hebbel replied sixty days.

Agent Porter advised that they are out of compliance with following special conditions: supposed to notify Agent for inspection when the final grade was done, conditions #51 and seeded with wetland seed mix and wetland seed mix to be shown on the plans.

Agent Porter recommended issuance of Enforcement Order for non-compliance of those conditions as stated and work to be done in the spring and sixty days to complete the work as requested.

Commissioner Pacheco made a motion to issue an Enforcement Order for conditions not in compliance as read by the Agent. Motion was seconded by Commissioner Audette. 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, 5/7/19) - 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, 5/7/19) - 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. **CONTINUED**
3. **SE49-0815** – (Continued from 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19) - 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.

Agent Porter advised that Mr. Paul Carlson is not present this evening.

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

4. **SE49-0819** - (Continued from 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19) - **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, 5/7/19) - **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, 5/7/19) - **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, 5/7/19) - **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**

8. **SE49-0825** - (Continued from 5/7/19) - **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 and Adam Goda were present. Ms. Wade advised that this matter was continued from last meeting for additional information from MA DEP which letter has been received and forwarded to Agent Porter.

Agent Porter advised that Ms. Wade has addressed all her concerns which she has incorporated into the Special Conditions and recommended the issuance of an Order of Conditions with the following Special Conditions: sheeting is to be installed and top of sheeting is to be at elevation 6, compost filter tubes to be used as primary sediment control where they are proposed to be stationary, waddles or haybales to be used in areas where sediment controls are required to be portable such as active phase or stockpile area or drilling areas, spill kits with absorbent pads and booms are to be kept on site at all times.

Commissioner Audette made a motion to issue an Order of Conditions as recommended by the Agent. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

## **NEW HEARINGS:** **NONE**

## **NEW BUSINESS CONTINUED:**

### **1. Briarwood Court Enforcement Order – owners requested to appear**

Agent Porter advised that she issued an Enforcement Order dated May 19, 2019 for dumping debris into bordering vegetated wetland.

Commissioner Audette made a motion to ratify the Enforcement Order. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Commissioner Audette made a motion to issue another Enforcement Order giving the property owners thirty days as deadline for removal of debris and institute a fine if work is not complete. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

### **2. 68 Erin Court Notice of Violation – owner requested to appear**

Mr. Seth Tiburcio of 68 Erin Court was present as requested and stated that he was advised by his insurance company to have trees evaluated. He had an arborist come by and look at the trees closest to his house and their evaluation was due to proximity of trees to house recommended the trees be removed which he did and someone called to complain and now he is here. Agent Porter went out to the site and spoke to him about the buffer zone and no disturb zone and chain link fence he put up along his property boundary, When he bought house years ago the split rail fence was falling apart, and it had no signs. He took that fence down and put this fence up after he had a surveyor come. From where original fence was, he threw grass seed down last summer and it's now a full lawn

Agent Porter advised there was a certificate of compliance issued on this property back in 2007. Mr. Tiburcio advised that nothing that he has in his possession shows a wetland boundary and he paid \$400 for a land surveyor to come in and the stakes are still there, and he put up his fence according to said survey. Mr. Tiburcio stated that this Commission could probably make it a little easier for people buying a home with wetlands and sending them letters because he was unaware of any restrictions.

Commissioner Dixon said that at closing the realtor is supposed to make you aware of any restrictions. Mr. Tiburcio replied that he cannot remember whether he was told.

Agent Porter showed pictures of existing site to Commission.

Commissioner Audette stated that his fence is now in the buffer zone. Mr. Tiburcio stated that his intentions was only to make his yard safer and cleaner.

Mr. Tiburcio stated that putting the fence up to where it was extremely restricts the use of his property and would like to use his backyard.

Agent Porter recommended leaving the chain link fence there otherwise he will have to rip it out and planting arborvitaes or split rail fence to define wetland line. Agent Porter advised that she can go out there and meet with him. Mr. Tiburcio expressed frustration that he paid \$2,000.00 on a fence that he put on the property line and now must spend more money to put up another fence.

Mr. Tiburcio made a formal complaint and wants the Commission to check all the properties on Erin Court.

Agent Porter advised that a notice of violation was issued and inquired if the commission would like to issue an Enforcement Order requesting that he place a barrier at original area within a certain amount of time. Commissioners agreed to issue an Enforcement Order giving Mr. Tiburcio sixty days to put up the barrier. Agent Porter will come to the site and meet with Mr. Tiburcio to let him know where to place the barrier.

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

### **3. 3782 Acushnet Avenue Notice of Violation – owner requested to appear.**

Mr. Michael Reynolds of 3782 Acushnet Avenue was present. Agent Porter advised that a notice of violation was issued for building in buffer zone area without a permit. Agent Porter showed pictures of existing site to the Commission.

Commissioner Audette inquired whether he has a building permit for this. Mr. Reynolds didn't realize he needed one and when he realized he needed one he went to the building department to obtain one and then received this notice. Agent Porter has not signed off on the building permit until it is determined whether the Commission wants Mr. Reynolds to file an after the fact or an RDA.

Commissioner Audette made a motion to issue an Enforcement Order to install a barrier at no disturb zone. Agent Porter will go out to the property and tape off the barrier where to put up the fence. Work is to be complete within sixty days. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

### **4. 100 Duchaine Boulevard Enforcement Order – update**

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

Agent Porter advised that she visited the site today and they have removed the glass beyond solar panels and need sixty days to complete the work, the Enforcement Order issued gave them thirty days.

The Commissioners did not agree to extend it to sixty days. They have until June 7<sup>th</sup> to complete the work.

### **5. Shawmut Avenue Enforcement Order update**

Agent Porter advised that the Constable served the Enforcement Order and they have paid the fine and will have the concrete removed by June 7<sup>th</sup>.

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

Agent Porter advised that Mr. David Rosanina of Acushnet Avenue through Steve Chmiel wants to know if they can stockpile some of the dirt in the buffer zone because it's all wet and tracking it onto Acushnet Avenue and will haul it all off by July 1<sup>st</sup>.

The Commission agreed to allow him to stockpile in the buffer zone until July 1<sup>st</sup> and then remove it.

### **FEE SCHEDULE**

Agent Porter advised that has issue with old requests for Certificate of Compliances that are outstanding. The fee was revised to \$1,500.00 for commercial. Some old outstanding sites won't have as-builts and won't need peer review, so this fee is too large.

Agent Porter will speak with the Solicitor's Office and talk to the building department.

Agent Porter advised the Commission that Mr. George Scott's check was returned for insufficient funds. He was made aware that his check was returned, and he advised that he would bring the check in last week which he has not done. He was issued a partial Certificate of Compliance because he had not installed the arborvitaes and had said he would do that prior to the end of the month.

### **7. Community Preservation Committee**

Commissioner Pacheco advised he will be resigning from the CPA. Commissioner Blanchard has agreed to be the representative with CPA for the Commission.

## **ADJOURN**

Commissioner Audette made a motion to adjourn at approximately 8:15. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

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Sandy Douglas, Administrative Coordinator