



City of New Bedford
Jonathan F. Mitchell, Mayor

**Meeting Minutes of the Conservation Meeting of
October 2, 2018
Brooklawn Senior Center**

Members Absent

Staff Present

Agent Sarah Porter
Sandy Douglas

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

CALL MEETING TO ORDER
ROLL CALL OF COMMISSIONERS

Dennis Audette, Vice Chairperson, Craig Dixon, Chairman, Peter Blanchard, Chance Perks and Paul Pacheco.

OLD BUSINESS:

1. **SE49-891** – (Continued from 9/4/18, 9/17/18) - A Request for Certificate of Compliance as filed by NSTAR Electric Company for property located at 50 Duchaine Boulevard, New Bedford (Map 134, Lots 456, 457, 458, & 459). Representative is Matthew J. White of Farland Corp. **CONTINUED**

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) - 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- 0809 (Continued from 8/21/18, 9/4/18, 9/17/18) - A Notice of Intent as filed by Heike Milhench of Milhench Supply Company for property located at 127 Duchaine Boulevard, New Bedford (Map 133, Lot 21).** Applicant proposes to construct a 10,680 s.f. building addition with associated wetland filling and replication. Representative is Mathew White of Farland, Corp.

Mr. Christian Farland of Farland Corp., was present on behalf of the applicant. At the last hearing, the Commission forwarded the application to Nitsch Engineering for peer review and they have satisfactorily responded to Nitsch's comments. Mr. Farland stated that the only outstanding issue was construction of the addition. The envelope of the building foundation will act as a retaining wall and all existing grades will remain as is. No fill will be brought in after the addition and the topography will not change at all. Mr. Farland is hoping to get approval this evening, so they can commence this project before the winter season.

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

Agent Porter stated that this project is set to go and there were some discrepancies between the calculation by Nitsch and by Farland regarding the amount of impact but when they met they came up with 4,930 s.f. of impact. Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: the approved plans and Order of Conditions include standard requirements of the Conservation Commission for the wetland replication areas, including the post construction and two year monitoring requirement. Any deviation from these plans or the following conditions shall require the approval of the Conservation Commission. An as-built plan of the wetland replication area as prepared by a professional land surveyor with a ½' contour shall be submitted to the Conservation Commission for acceptance upon reaching final grade of the wetland replication area and prior to planting. As-built plans with utilities and grading shall be submitted to the Conservation Commission when the work is completed. The engineering consultant for the Conservation Commission shall at a minimum inspect the sub grade of the roof infiltration system. There is no SWPPP requirement for this project.

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

- 3. SE49-0810 – (Continued from 9/4/18, 9/17/18) - 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**

NEW BUSINESS:

- 1. SE49-0749 – Request for a Certificate of Compliance as filed by Aspen Properties Holdings, LLC., for property located at 1693 Phillips Road (Map 134, Lot 473).** Representative is Nicholas F. Dufresne of Farland Corporation.

Mr. Christopher Moniz of Aspen Properties Holdings was present and advised that the work has been completed and the as-built plan have been submitted and all requirements have been met and he is requesting a Certificate of Compliance.

Agent Porter advised that they put up *Arbor vitae* instead of split rail fence and the sign is up. There is some un-vegetated areas that the grass is not growing yet. Mr. Farland advised that the applicant is trying to sell this property and this permit is holding up the sale of the property.

Agent Porter inquired whether the Commission wanted to issue a partial Certificate of Compliance or a full Certificate of Compliance. The Commission agreed to issue a partial Certificate of Compliance until the areas is fully vegetated.

Agent Porter recommended the issuance of a partial Certificate of Compliance with ongoing conditions #50 and #51.

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

2. **SE49-0787** - **Request for a Certificate of Compliance as filed by DPM Development, Corp., for property located at Seth Daniel Drive (Map 136, Lot 484). Representative is Jeffrey Tallman of SITEC. CONTINUED**
3. **SE49-0788** – **Request for a Certificate of Compliance as filed by DPM Development Corp., for property located at Seth Daniel Drive (Map 136, Lot 483). Representative is Jeffrey Tallman of SITEC. CONTINUED**
4. **SE49-0789** – **Request for a Certificate of Compliance as filed by DPM Development Corp., for property located at Seth Daniel Drive (Map 136, Lot 485). Representative is Jeffrey Tallman of SITEC.**

Agent Porter advised the Commission that everything is in order and split rail fence as been installed. Agent Porter recommended the issuance of a full Certificate of Compliance with ongoing Conditions #51.

Commissioner Audette made a motion to approve a full Certificate of Compliance with special conditions as read. Motion was seconded by Commissioner Perks. All in favor. Motion carries.

5. **SE49-0790** – **Request for a Certificate of Compliance as filed by DPM Development Corp., for property located at Seth Daniel Drive (Map 136, Lot 486). Representative is Jeffrey Tallman of SITEC.**

Agent Porter advised the Commission that everything is in order and recommended the issuance of a full Certificate of Compliance with ongoing Condition #51.

Commissioner Audette made a motion to approve a full Certificate of Compliance with special conditions as read. Motion was seconded by Commissioner Perks. All in favor. Motion carries.

6. **SE49-0794** – **Request for a Certificate of Compliance as filed by DPM Development Corp., for property located at Seth Daniel Drive (Map 136, Lot 482). Representative is Jeffrey Tallman of SITEC. CONTINUED**

NEW BUSINESS CONTINUED:

1. **Agent Updates/General Correspondence.**

2. The Willows

Mr. Chris Bilotti of the Willows, LLC., was present and stated that he bought this property last year and there is a sump pump there now and there is not French drains and they wanted to put some drains in. The building inspector suggested running pipes out the front into the catch basin which they have done. The plan is to install French drains throughout and redirect the pumps. The catch basins feed the water out into the back its all groundwater which is clean. Water is because of low line areas in the back and just wants to put the water back to where it came from. Mr. Bilotti does maintain the catch basins now.

Commissioner Audette expressed concern and felt that he needed a better system then feeding into the catch basins because eventually it all ends up in the wetlands. Mr. Bilotti stated there is no easy answer because there is no place to put the water and this is how it was originally constructed and his concern is not having dampness in the basement.

Agent Porter stated that there was an old Order of Conditions but no Certificate of Compliance was ever issued. The issue of French drains came up a while back but it was never resolved. The backyards of the building are about 25' or less from the wetlands. Agent Porter inquired whether or not to remain with disbursed flow out the back or channel it out to the storm drain system and she also shares Commissioner Audette's concern that concentrating the water through storm drain system and overloading it especially when there is rain.

Agent Porter advised that the Building Dept. stopped them about a month ago because they started excavating the French drains inside the building and there are some piles of concrete in the back near the wetlands that need to be moved and disposed of. Agent Porter inquired if the Commission would like the owner to put back what was there because something has to be done with this water.

Chairman Dixon suggested they keep doing what they are doing because he doesn't want to see flooding in the parking lot.

Commissioner Audette stated that if they start pumping into culverts he would want to see an engineering plan.

Chairman Dixon inquired as to what is outstanding on the COC. Agent Porter replied that a COC was never issued it was in 1988. Commissioner Audette commented on how he purchased this property without a COC is interesting. Mr. Bilotti stated he is trying to make everything right as the new owner.

Mr. Bilotti added that the person who sold him the property redrew the line because there is more foundation and feels that he has hopes for additional construction in the future. Agent Porter looked at that and notified the Bldg. Department that there were wetlands on that piece of land that was being carved out.

Mr. Dixon advised Mr. Bilotti to keep pumping everything out to the wetland and remove the piles of concrete. Mr. Bilotti agreed.

Agent Porter inquired if Mr. Bilotti was going to complete the installation of the French drains in the building. Mr. Bilotti replied yes. Agent Porter advised him to not stock pile in the back because it will wash out into the wetlands.

Agent Porter advised Mr. Bilotti that he is to go back to the building department with a plan as to how he is going to route these French drains into the back of the building. Mr. Bilotti is going to use existing

holes and there is no internal drain. Commissioner Audette inquired if doing work outside? Mr. Bilotti replied no.

Chairman Dixon advised Mr. Bilotti go to Building. Dept. and speak with them.

3. Buttonwood Pond

Agent Porter advised the Commission that she met with Solitude at the pond on September 19, 2019 and they were taking temperature and Dissolved Oxygen (DO) measurements but did not take turbidity which is requirement of OC.

Agent Porter advised that she received the data today and they have not gotten anything over 5.0, the highest is 4.85 between fountain the and island which is the best part of the pond area for oxygen, got that at the surface, at 1' down it was 4.82, at 2' it was 4.68, at 3' it was 3.8. North of the island got 4.08 at the surface 3.88 at 1', 3.97 at 2' and 3.84 at 3' down and 4.1 at 4' down. At the none treatment area at 1' down got 2.67, at 2' got 2.50, and at 3' got 1.27, at 4' down got 1.01. This data was sent these to Division of Fish and Wildlife to obtain their guidance.

Steve Hurley from the State Fisheries emailed the following to the Agent: That the DO is fairly low in September and it should have improved with cooler weather and wants to make sure that the DO levels in the pond at 2'-3' below the surface is greater than 5 mg per liter prior to treatment and that DO is to be monitored after the treatment and the fountain operated if DO drops. Need to treat around existing dock and to where the dock will be moved to and around the area because the plants and the algae keep clogging up the pump.

The Agent is not sure how the commission feels about this and don't know if the swan people will be available to keep area running because someone must go out there every day to clean the pump on the sprinkler. Given the data from September, not sure the swan boat people are available to have irrigator going and DO levels needs to substantially increase from September 19.

They can go out and sample the DO again and the temperature and see whether or not the DO levels have increased but can only treat for the next week or so because plants will die back. Further, the consultants must be committed to monitoring immediately afterwards and not two weeks later after having a fish kill. Monitoring should be done every other day for a certain number of times.

Commissioner Audette inquired as to who is paying for all this. Agent Porter believed it is the swan boat people they have a three-year contract.

Agent Porter advised that a decision is needed by tomorrow as to whether or not they start treating. Commissioner Perks stated that based on the Division of Fish and Wildlife comments, they should start asap.

The Commissioners decided not to treat the pond.

4. 3806 Acushnet Avenue

Agent Porter advised that the restoration plan was in their packets. When the owner files a NOI the filing fee will be \$8,000.00 because he altered a large area of wetland. The Conservation Commission's fee schedule allows the Commission to reserve the right to waive penalties if the Commission feels it is in the

best interests of the city of New Bedford. Additionally, since they are restoring the wetland, once completed it will be a wetland again.

Commissioner Audette inquired if there was a final figure to restore? Agent Porter doesn't know yet. Commissioner Audette doesn't not want to issue a permit and then the applicants not follow through with the work. He feels it would be best to have the applicant appear before the Commission and explains when he will begin the work and/or whether or not he has the money to do the work so a permit is not issued and then it just sits there.

Chairman Dixon requested an estimate of the work, who is going to perform the work and when the work will be done

Agent Porter advised the Commission that they need to make a decision as to whether or not to waive the fees.

Agent Porter recommended having the applicant pay the \$250.00 administrative fee, \$500.00 after the fact fee and forget the alteration fees.

Chairman Dixon doesn't want to bankrupt the applicant with a \$8,000.00 filing fee, more importantly wants to see the work done. Chairman Dixon also felt it would be best that he have a representative present at the next meeting to present this to the Commission. The Commissioners agreed.

The Commission agreed to reduce the application fee to \$750 and that he file a NOI and have his representative present at the next meeting.

5. Sassaquin Pond

Commissioner Audette advised that he has met with City for Sassaquin Pond and have filed for the CPA Grant with the City's consent.

ADJOURN

Commissioner Audette made a motion to adjourn at approximately 7:40. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas, Administrative Coordinator