



Conservation Commission

August 19, 2014 – 6:30 PM – **Minutes**
City Hall, 133 William Street

Members Present

John R. Radcliffe, Chairman
Craig Dixon, Vice Chairman
Dennis Audette
Paul Pacheco

Members Absent

Staff Present

Agent Sarah Porter
Sandy Douglas, Administrative Specialist

HEARINGS:

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

- 1. (Continued from 10/7/13, 10/22/13, 11/12/13, 11/26/13, 12/10/13, 1/7/14, 2/8/14, 2/19/14, 3/4/14, 3/19/14, 4/1/14, 4/25/14, 5/6/14, 5/20/14, 6/3/14, 6/17/14, 7/1/14, 7/15/14 & 8/5/14) - A Request for Determination of Applicability as filed by Ron Labelle, City of New Bedford Commissioner of Public Infrastructure for property identified as 1350, 1296, 1232, 1216, 1182 & 1174 Sassaquin Avenue, New Bedford (Map 138, Lots 445, 81, 67, 69, 60, 392, and 191) and the Swallow Street and Sassaquin Avenue Rights of Way.** Applicant proposes to upgrade the storm water management system in the Buffer Zone. Representative is David Fredette of the Department of Public Infrastructure. CONTINUED
- 2. SE49-0597 – (Continued from 1/7/14, 2/8/14, 3/4/14, 3/19/14, 4/1/14, 5/20/14, 6/3/14, 6/17/14, 7/1/14, 7/15/14 & 8/5/14) - A Request for Certificate of Compliance as filed by Ana M. Reis, Trustee of Bismark Meadows Realty Trust for property identified as Bismark Street (Bismark Meadows Road), (Map 136, Lot 131).** Ratify Enforcement Order.

Agent Porter advised the Commission that this is the same Enforcement Order only it is now being issued to Ana Reis, Trustee of Bismark Meadows Realty Trust c/o the City of New Bedford. Because the City is in the process of taking the funds from the subdivision. Waiting for an estimate from the contractor and then they should be able to commence the work and have until October 1st to submit an as-built with calculations.

Chairman Radcliffe inquired as to whether the work would be completed by the winter. Agent Porter replied that it should be completed by then and the City Planner asked for the October 1st deadline.

Chairman Radcliffe inquired whether there was anyone present who wished to comment on this matter. Councilor Jim Oliveira was present and stated that he has been following this issue for over two years and any work to help move the acceptance of this street forward would be greatly appreciated by the residents. Councilor Oliveira stated that he does understand that things are moving forward and he has spoken with DPI and they are ready to go.

Chairman Radcliffe stated that he is gratified to see that there have been a number of people from different parts of City Government involved in moving this forward especially the Planning Department, DPI and the Legal Department.

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

3. **SE 49- 0704 - (Continued from 7/1/14, 7/15/14 & 8/5/14) - A Notice of Intent as filed by Ron Labelle, City of New Bedford Commissioner of Public Infrastructure for property identified as Fisherman's Memorial Pier on East Rodney French Boulevard (Map 6, Lot 2).** Applicant proposes to construct a new elevated promenade and conduct structural repairs to the existing pier in Land Subject to Coastal Storm Flowage with temporary alterations proposed on the Coastal Bank and Coastal Beach. Representative is Magdalena Lofstedt of CDM Smith. CONTINUED

4. **A Request for Determination of Applicability as filed by Susan MacArthur of the Massachusetts Department of Transportation for property located on Church Street (Map 97, Lot 5 and Map 98, Lot 1).** Applicant proposes to construct 1,600 linear feet of new railroad siding track and replace the existing railroad platform and truck loading dock to accommodate the new rail. Work is proposed in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Gene Crouch of Vanasse, Hangen, Brustlin.

Ms. Susan MacArthur and Mr. Gene Crouch were present.

Ms. MacArthur advised the Commission that this project is for proposed extension of the industrial siding and loading docks and it is part of the placement of four bridges prior to the South Coast Rail Construction project. Gulf Coast Road, President Avenue, and Brownell Street bridges in Fall River and Wamsutta Road Bridge are all going to be replaced as early action items prior to the rail project. Dean Street was already replaced and widened and when they get to Wamsutta Road bridge the rail access will be eliminated South of Wamsutta for approximately seven months due to the work on that bridge. Proposing a new siding and platform for the Sid Wainer business with continued freight access.

Mr. Crouch stated that the South Coast Rail will follow the New Bedford Y Intersection into Fall River, there are wetlands in the interior of the Y and they were flagged and delineated and approved as part of the Deane Street grade crossing work ANRAD. They are proposing to place 1,600 feet of track, 500 feet of platform and then replace the truck dock and demolish the existing shorter platform. As a separate action there will be two tracks installed which will be the main line of the South Coast Rail and then the siding itself. Erosion controls will be placed on the wetland side of the whole project; it will be done by others when the main line track work is complete. Mr. Crouch stated that the proposed work is on the outer reaches of the wetland buffer zone. There is an under drain being put in along the mainline track.

Commissioner Audette inquired whether this will project will tie into any of the construction along Nash Road intersection. Mr. Crouch replied that it will all roll into the same project.

Commissioner Pacheco inquired if the rails would be replaced. Mr. Crouch replied yes and the old rails will most likely be recycled.

Chairman Radcliffe inquired as to the timeline of this project. Mr. Crouch replied that in terms of construction time it would be probably be a few months.

Commissioner Pacheco inquired as to who will maintain this. Mr. Crouch replied that it will be the private property owner and the State property owner who will maintain it.

Agent Porter stated that this is a straight forward project and as far as the wetland impact, there is just a little bit of encroachment in the outer buffer zone. Erosion controls will be installed and will consist of straw bales and silt fencing. Agent Porter recommended the issuance of a negative determination that the work as opposed will not impact adjacent wetlands, that Conservation Agent inspect the erosion controls prior to work commencing, erosion controls being installed by others on the West side of the track shall consist of straw bales and silt fencing and not the waddles.

Chairman Radcliffe inquired whether there was anyone present who wished to speak in favor or in opposition of said project. None heard.

Commissioner Dixon made a motion to approve as recommended by the Agent. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

OTHER BUSINESS:

1. Trustees of the Reservation- Conservation Restriction

Ms. Kelly Whitemore was present and advised the Commission that they are still waiting for the final okay on the grant and it is expected within 30 to 60 days and they would like to close this matter as soon as possible so when they have the final approval they can wrap this up.

The last issue to discuss with the Commission is the last paragraph on page 7 which reads as follows: “Minor Educational and Recreational Structures. The construction, maintenance, repair and replacement of interpretive signs and exhibits and benches” (that would be by right) and then “with prior written notice of approval for the other minor structures for use by the public of educational and recreational purposes, including but not limited to a gazebo and permanent playground structures.” And once have notice or approval or by right they could maintain, repair or replace them and they would be designed to not have any negative impact on the conservation purposes. Ms. Whitemore stated that the more she thought about this, that one of the purposes of a Conservation Restriction is for recreation and it did not seem consistent with the CR for the purposes of providing recreation and then having to ask for approval for structures which are considered minor.

Chairman Radcliffe stated that the issue he has is when using the language “minor” it is open to interpretation and if there is prior written consent from the Conservation Commission, any structure that will be put up in this area would at least have a nod from this body. As far as maintenance, repair and replacement of those structures once they have been approved, there would be not any issue with that. Chairman Radcliffe stated that this Commission would like to have their purview over what is built on this property. Chairman Radcliffe inquired whether any of the other Commissioners had any additional comments.

Commissioner Audette added that what they might feel is a minor change might not be minor to this Commission and this Commission would like to continue to protect the property.

Chairman Radcliffe stated that any structure that is going to be built on this property will need prior approval from this Commission in order for this Commission to accept the Conservation Restriction.

Chairman Radcliffe suggested the language be changed on the Conservation Restriction and to come back in two weeks and hopefully will be able to finalize at that time.

Ms. Whitemore stated that she will e-mail the changes to Agent Porter for the Commission to review and approve at the next meeting on September 2, 2014. Chairman Radcliffe advised Ms. Whitemore that she doesn't have to be present at the next meeting as long as the language is in order.

2. Agent Updates

HOWARD AVENUE

Agent Porter advised the Commission that the work at Howard Avenue is currently outside of the buffer zone but will file a Notice of Intent on Thursday for the work within the Buffer Zone and it will be before the Commission at the next meeting on September 2, 2015. They have done some of the work in the Buffer Zone but they are not doing the final embankment work because that is work that is different from what existed prior

to the emergency. Under the Emergency Certification guidelines you can only do work that is necessary to abate the emergency which they have done.

ALGONQUIN MARKET PROJECT (Gas Transmission line)

Agent Porter advised that a CD for the Algonquin Market Project has been received and it is a huge pipeline project but in New Bedford there is no wetland impact to the wetland areas.

3. General Correspondence

4. Meeting Minutes for Approval of 4/25/14 and 5/6/14.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of April 24, 2014 was made by Commissioner Pacheco. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of May 6, 2014 was made by Commissioner Dixon. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

A motion to adjourn was made by Commissioner Dixon at approximately 7:15 pm. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist