



City of New Bedford
Jonathan F. Mitchell, Mayor

**Meeting Minutes of the Conservation Meeting of
August 5, 2014
Room 314, City Hall**

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) - 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) - 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). Agent to present new Enforcement Order. City Planner to appear to update Commission.

Jill Maclean, the City Planner was present and addressed the Commission. Ms. Maclean advised that they have seized the funds from Bismark Meadows in the amount of \$23,000.00 and that she is working with DPI, The Solicitor's Office and Agent Porter to determine all the outstanding items. DPI has mowed the grass in order to be able to conduct the survey work to determine where the detention basin needs to be. Will have an estimate from PA Landers to do the work and if it's feasible that's the direction that they will be taking because it will be quicker. The work should be finished by October 1st and then can proceed to have street accepted by City Council. The sidewalks will also be fixed and will not be doing any work on private properties.

Agent Porter advised that she does not have the Enforcement Order back from City Solicitor Friedman and therefore, the Commission will not be able to sign it tonight. The Order might be issued to the City of New Bedford.

Chairman Radcliffe stated that this matter needs to move forward.

Agent Porter replied that the Order has been done, it's just being reviewed by the Solicitor and she will contact their office tomorrow to check the status and will mail it out and the Commission can ratify it at the next meeting. Agent Porter confirmed with the Commission that they want the detention pond loamed and seeded. The Commission agreed.

3. SE 49- 0704 - (Continued from 7/1/14 & 7/15/14) - 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 PER REPRESENTATIVE'S REQUEST TO 8/19.**

4. SE 49-548 – A Request for partial Certificate of Compliance as filed by Thomas R. Waterman d/b/a Waterman Realty Trust for property identified as 28 Maddie Drive (Map 136, Lot 502). Representative is Thomas Waterman.

Mr. Thomas Waterman was present and stated that he has filed all the necessary documents and is requesting a Certificate of Compliance.

Chairman Radcliffe inquired whether anyone present had any comments or concerns. None heard.

Agent Porter advised that when the Attorney did a title search for this lot SE49-0548 came up and Mr. Waterman is only asking for a partial release and not for the entire subdivision. The Commission already approved the as-built for Lot 502 as a condition of the RDA in order to obtain the Certificate of Occupancy. Agent Porter recommended the issuance of a partial Certificate of Compliance for Lot 502 only that it has been constructed and in substantive compliance. The plans for acceptance are the As-built for Lot 502 with ongoing conditions that if any changes in drainage will require written approval from the Conservation Commission.

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

5. SE 49-285 - A Request for Certificate of Compliance as filed by Maritime Terminal, Inc., for property identified as Fish Island (Map 60, Portion of Lot 1). Representative is Walter Galuska of Tibbetts Engineering.

Mr. Walter Galuska of Tibbetts Engineering was present on behalf of the applicant and is requesting a Certificate of Compliance for the bulkhead work that was performed. The NOI identified the work on the north and east side of bulkhead work that was done on Fish Island. The applicant only did the north side bulkhead.

Agent Porter stated that she has visited the site with Mr. Galuska. Agent Porter recommended the issuance of a partial Certificate of Compliance for the north end of the bulkhead. There aren't any significant changes in the completed work there were only minor changes.

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

6. A Request for Determination of Applicability as filed by Holly Palmgren of the Massachusetts Bay Transportation Authority (MBTA) for property identified as the Nash Road Grade Crossing which also includes work within the railroad Right of Way from approximately 1,500 feet north of Nash Rd, 4,700 feet south of Nash Rd and 600 feet along the Wye track south of Nash Rd. heading west. The applicant proposes to replace the Nash Road grade crossing, rehabilitate the existing rail including drainage upgrades and installation of 5 turnouts in the Buffer Zone. Representative is Kevin Slattery of HNTB Corporation.

Ms. Holly Palmgren was present and advised that all the work is outside the resource area and all proposed new drainage is also outside the resource area but in the buffer zone. This is an early action project for the South Coast Commuter Rail. They are doing work in Freetown, Taunton and New Bedford.

Chairman Radcliffe stated that he has walked the entire line in New Bedford for this project and it was explained to him that a number of improvements are currently being made by the Massachusetts Coastal Rail and that many of those improvements were actually temporary improvements that would accommodate when the project is done.

Ms. Palmgren stated that the intent is that this work will accommodate the future commuter rail service and for immediate purposes it will accommodate the freight service. Ms. Palmgren advised that Mass Coastal Rail operates it and MA DOT has the right of way.

Mr. Kevin Slattery the Wetland Scientist with HNTB Corporation was also present and advised the Commission that the project will start South of Nash Road and go to 195. It includes re-building grade crossing and adding a Wye track with a shift in the main line to the west. There are two wetland areas and have been both reviewed and delineated. There is existing crossing protection at Nash Rd. and they will be adding a pedestrian crossing gate.

Mr. Slattery stated that there are separate discharge points for a drainage outlet that will go into some of the rugged, wooded area and will include leaching basins and he feels they meet the Stormwater Standards.

Mr. Slattery stated that there is 104,000 s.f. of work in the buffer zone and there is approximately 6,700' of track work.

Commissioner Pacheco inquired if this project would contribute to the already existing flooding & erosion problem in that area.

Mr. Slattery replied that this project will be betterment to the City drainage and stormwater. There is no drainage system there now and this will keep the water off the rail and carried away to discharge point.

Chairman Radcliffe stated that the Commission has been looking at this project for a long time and when comments were made a couple of years ago, the Commission pointed that the interest of the overall improvement in the ecological climate affected by heavy duty rails far outweighed any of the negative aspects of it. Chairman Radcliffe is pleased to see improvements to the drainage in the road and feels that the project should go forward.

Agent Porter stated that she spoken with Mr. Slattery today with regard to property ownership to make sure all the appropriate authorizations were obtained on the Right-of-way and the Mass DOT property. Also still need notarized authorization from Mr. Ronald Labelle for the work on Nash Road.

Agent Porter recommended the following special conditions: 1) notarized letter of permission required from DPI for the work on Nash Rd. grade crossing; 2) that Conservation Agent inspect the erosion controls prior to any work start-up; 2) that the SWPPP for the project be transmitted to the Conservation Commission electronically prior to work start-up; and 3) that the monitoring reports required under the SWPPP be submitted electronically to the Agent.

Agent Porter inquired if they believed there would be any dewatering. Mr. Slattery replied that they do not have any dewatering data at this point. The water that they would be handling is more surface water and if they had to dewater they would use a pump, silt bag or basin.

Agent Porter added the condition that any dewatering is not to discharge into any wetland resource area. Agent Porter recommended a negative determination with plans for approval dated 8/8/2014.

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

7. A Request for Determination of Applicability as filed by NSTAR Electric for property identified as the east side of Belleville Ave. (Map 111, Lot 155). Applicant proposes to relocate two underground conduit lines within the Buffer Zone of the Acushnet River. Representative is Daniel Rukakoski of Tighe & Bond.

Ms. Devleena Ghosh-Brower of Tighe & Bond was present on behalf of the applicant. She advised the Commission that the project is on private property on Belleville Avenue and the resource area in proximity to the work area is the Acushnet River and the delineated portion is the top of the coastal bank. There are existing lines that comes from Station 611 in New Bedford to this private property, crosses the Acushnet River and goes into Station 612 in Acushnet. The lines 112 & 114 are already in place, one is a gas line and the other is an electric line. A couple of years ago, The Army Corps of Engineers required NSTAR to have a conduit that crosses the river. At this time, the conduit is sitting empty and for safety reason they want the conduit moved from the existing condition to a station in Acushnet.

The portion of the work that is New Bedford, is small. The manhole is approximately 60' from the top of the bank so there is only 40' of the new proposed trench work that is within the 100' buffer zone to the coastal bank. There will be an existing sealed manhole which is MH773.5 on a private property that they have a permanent easement on. The trench will be approximately 4' wide and 9' deep.

The applicant is requesting a negative determination that the work will not impact wetland resource areas and thereby a Notice of Intent is not required.

Chairman Radcliffe commented that the process of the work itself may impinge on the resource area and the river is one of the major resource areas.

Agent Porter advised that that her biggest concern was the depth of excavation, they are working on existing paved area but have to go down 9' and will have to dewater and will have infiltrate.

Ms. Ghosh-Brower replied that they will not be doing it because of the proximity of the unvegetated area is so close to the wetland. She said they can do one of two things 1) they can have a frac tank on site and

pump it into tank and haul it off; 2) the significant portion of the trench that is going to be in an upland area they can re-infiltrate the water with ground water barriers. Ms. Ghosh-Brower stated that the Commission can specify the special condition.

Chairman Radcliffe questioned the exact square footage of the area that will be working on. Ms. Ghosh-Brower replied that it will be 4'x40' by possibly 9' deep. So approximate 1,442 cubic feet.

Commissioner Audette inquired whether this project is relying on what happens in Acushnet. Ms Ghosh-Brower replied no.

Chairman Radcliffe inquired as to the timeframe for this project. Ms. Ghosh-Brower replied that they want to break ground as soon as all permits have been received and the project should not take more than one week.

Chairman Radcliffe recommended putting a work completion guideline that once work has begun it must be completed within 90 days so there is a limit of exposure to the river.

Agent Porter recommended the issuance of a negative determination with the following special conditions: 1) if dewatering is required it will occur into a frac tank; 2) waddles to be placed on the Eastern end of the excavation area; 3) once work begins it is to be completed within 90 days. The plans for approval are dated 7/2014.

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

8. A Notice of Intent as filed by the City of New Bedford Harbor Development Commission for property identified as the east side of Macarthur Drive (Map 47, Lot 225). The applicant proposes to rehabilitate the Coast Guard Park Walkway in a Designated Port Area, Land Under the Ocean, Land Containing Shellfish and Land Subject to Coastal Storm Flowage. Representative is Briscoe Lang of Pare Corporation.

Mr. Carl Hammond of Pare Corporation was present on behalf of the applicant and advised that the existing work is between the State Pier and Steamship Pier. The caps on the pier are all rotted and part of the plan is to re-use a number of the timber piles, reconstruct them with new caps, new stringers and new decking and create a smaller footprint. The existing structure is fully licensed and will be reducing the area by ½ the number of piles. The floats with anchors will be done at a later time when the funding becomes available.

Chairman Radcliffe inquired as to the timeline for construction. Mr. Hammond replied that they are trying to get it done before the working waterfront festival and hoping to begin in the middle of September and it was be done within a couple of months.

Chairman Radcliffe inquired whether all work would be performed from the landside. Mr. Hammond replied that there might be some float work.

Agent Porter inquired how they will be removing the piles. Mr. Hammond replied that they will take out the decking and stringers and it will expose the caps and then they will cut the caps. Agent Porter also inquired as to how long the trash boom skirt was. Mr. Hammond replied that it will go to the mud line so approximately 7-8' and this should be noted in the specifications.

Agent Porter recommended the issuance of an Order of Conditions with the following condition in addition to the standard special conditions and one project specific condition which is that the trash boom have a skirt that extends to the mud line. The Plans for approval are the ones submitted with the Notice of Intent.

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

OTHER BUSINESS:

1. TTOR: CR and Baseline Documentation Report

Agent Porter advised that the Trustees of the Reservations for the Haskell property have asked for a continuance. They filed their baseline documentation report online but they still want to come before the Commission regarding changes to the CR.

The Commission agreed to extend a continuance.

2. Emergency Certification Howard Avenue

Agent Porter advised that there is a problem with dewatering on Howard Avenue, silt has escaped into the river because the dewatering is not up to par. CDM is now involved with the project. The second Emergency Certification issued was because they realized they need to go 100' (not 25') because the break in the pipe was underneath a loading dock. They need to install a couple of manholes and go 100' to get beyond loading dock. The third EC was to install 48" drain line. Under the 48" pipe they are extending it through the bank of the river and going westerly into the buffer zone and installing one or two manholes as required.

Commissioner Dixon made a motion to ratify the 7/22/14 Emergency Certification for installation of 100' of 24" drain line. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Commissioner Dixon made a motion to ratify the third Emergency Certification for the install of 100' of 48" drain line. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

3. Maddie Drive appeal update SE49-0700

Agent Porter advised the Commission that she had an onsite with DEP for the Superseding Order of Conditions and it looks like DEP feels that the 2010 wetland boundary that is still alive under the permit extension act is still a valid boundary.

4. Airport update

Agent Porter advised the Commission that she was out there after the last meeting and they are now doing tree clearing in Dartmouth of approximately 70 acres. They are hauling it down the road in New Bedford in between two wetland areas as a result the erosion controls were knocked out of the way and the Agent expressed concern to them that this could cause erosion into the wetland areas and they also had to repair some of the erosion control at the airport. Agent Porter contacted DEP and they conducted an onsite and woodchips had been placed along the berm which is doing a good job of containing the dirt and they fixed the erosion controls.

5. Agent updates

1147 FORBES STREET

Agent Porter advised that there is a proposal for a deck which is off the house area on the existing lawn area. Agent Porter inquired whether the Commission would like the applicant to file an RDA for the deck, since it will have support columns.

Chairman Radcliffe replied that if it's going to be a raised deck they will have to do some digging for the pilings and would like to have some overview over the project and feels that a RDA should be filed. The Commission agreed.

6. General Correspondence

FY 15 MACC DUES

Sandy Douglas advised that the MACC dues for FY15 are due.

Commissioner Dixon made a motion to issue payment from revolving fund for said FY15 dues. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

A motion to adjourn was made by Commissioner Dixon at approximately 7:50 pm. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist