



City of New Bedford
Jonathan F. Mitchell, Mayor

**Meeting Minutes of the Conservation Meeting of
October 7, 2014
Ashley Room, City Hall**

Members Present

John R. Radcliffe, Chairman
Craig Dixon, Vice Chairman
Paul Pacheco
Jacob Gonsalves

Members Absent

Dennis Audette

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, 8/19/14 & 9/2/14) - 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, 8/19/14 & 9/2/14) - 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). City Planner to provide an update on Enforcement Order.**

City Planner, Jill MacLean was present and advised the Commission that the Enforcement Order expired on the first, however, PA Landers has been hired to do the work on the detention basin which has been completed and only needs to be seeded other than that everything is complete. City Planner MacLean asked if the Commission could pay Nitsch Engineering to do the as-built for the detention basin. There was only \$23,000.00 remaining in the subdivision account and that money was used to pay the cost of fixing the basin and all the outstanding work which was the street lights and sidewalk improvements.

Chairman Radcliffe inquired as to how much approximately it would cost to pay Nitsch Engineering. Agent Porter replied that Nitsch Engineering has informed her that it would cost approximately \$1,000.00.

Commissioner Dixon made a motion to pay Nitsch Engineering from the revolving account for an as-built. 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, 8/19/14 & 9/2/14) - 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.

Ms. Kim Drake of CDM Smith was present on behalf of the applicant. Ms. Smith advised that the intent is to construct a park on the existing pier which is essentially an asphalt base with concrete benches some plant holders and a memorial. They intend to remove the asphalt but in a concrete base, a platform that will have granite steps and seating and some plantings. Will replace and relocate the flag pole and put in a statute honoring the fishermen at the end of the pier. They did find that the edges of the pier on the northeast corner were starting to deteriorate and as part of this work they will stabilize the pier before commencing work. Ms. Drake advised that they have provided the planting details in the event there is disturbance during construction. The intent is when they repair the seawall that all work is done on the landward side and try to minimize any disturbance to the grass. A review from the Division of Marine Fisheries was received and they had two comments one was to make sure that the flag pole was placed and that all work be done from the landward side if possible. There weren't any comments received from peer review.

Ms. Drake stated that there is an acknowledgment from DPI that if there is any storm events that come through DPI will in fact maintain and make any repairs necessary as a result of storm damage.

Commissioner Pacheco inquired as to how high the proposed monument will be. Ms. Drake replied that there will be an increase of the pier by 8' and the statute will constitute of a fisherman, his wife and children and the fisherman is approximately 6' tall.

Commissioner Pacheco also inquired that if the statute is not permitted, if the City is still going to repair the pier.

Mr. Ronald Labelle from the City of New Bedford DPI was present and replied that the pier is the City's responsibility and whether the project happens or not the pier needs to be repaired. Mr. Labelle stated that they have looked at the construction, sequence & component and his confident that the work can be done from the landside and does not want to put any equipment on the water side.

Councilor Lopes was present and stated that the pier has been falling apart for decades and the only reason the Administration is only looking at repairing the pier is because of the fisherman's memorial. He does not have a problem with the memorial but is with the elevation in excess of 8' high. Councilor Lopes stated that he has requested and continues to request a public meeting to discuss the proposed plan. The input from the residents has not been sought as to what this will do to their quality of life. People purchase a home on the water for one reason, the view. Councilor Lopes stated that as a person that lives and represents this area and bike rides this area five times, an 8' elevation is going to disturb the quality of life to the residents and people walking or driving around the point. This plan does not encompass the residents' opinion. This is a long term project and that needs to be taken into consideration and that needs to be taken into consideration when this Board votes. Councilor Lopes advised that the neighbors that he has spoken to, they are in opposition to the 8' elevation not the monument.

Chairman Radcliffe stated that he took some action unilaterally to see if there was a way to have some kind of meeting with everyone involved including the residents. He is very sympathetic to the notion of having ones very expensive and dearly earned view being obstructed. Chairman Radcliffe stated that this body does not address concerns of encroachment on a neighbor's view and are only charged with enforcing the Wetlands Protection Act and as a result, this Commission cannot do anything but to hear the conditions and recommendations that the Agent has on this matter. Chairman Radcliffe stated his own concern as a neighbor of that neighborhood and with a sense that all of the people involved in this project will do what they can to see to it that the project is done carefully and thoroughly.

Agent Porter recommended the issuance of an Order of Conditions with the following eight conditions which are re-instating what is already in CDM's response letter. 1) the applicant shall conduct all work from the landward side whenever possible, 2) that the applicant is required to coordinate with the MA Division of Marine Fisheries for all work in the water to ensure it does not impact the shellfish mitigation ongoing in the vicinity; 3) for work on the beach, spot elevations will be collected to define the slope of the coast beach prior to commencement of construction. Altered coastal beach will be restored to pre-construction slope using existing beach sand and planted with the to 3 stems of American beach grass at a spacing of 18"x18". The plantings shall be staggered in alternate rows to provide for maximum erosion control potential and planted at a 9" to 10" depth; 4) floating silt curtain shall be installed with a skirt length adequate to reach the bottom of the sea floor. A) galvanized steel ballast chain shall be on the bottom of the curtain to hold the curtain in place on the sea floor; 5) the tidal work zone and the beach shall be inspected on a daily basis and all construction debris removed daily by hand or with a machine reaching over from the top of the pier if too big for hand work; 6) wooden planks or timber mats are to be used on the beach and/or land containing shellfish for creating an access road for use by a track machine. These boards or mats shall be removed from the beach at the end of each work day (tidal cycle); 7) work on the northeast corner of the pier shall be limited to low low water tide when the pier repair area is exposed; and 8) maintenance of the pier shall be as proposed by CDM in their October 2, 2014 letter to the Commission except that it shall be prohibited to plow snow into the rain garden.

Commissioner Dixon stated that he does not care for the design proposed and made a motion to approve as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

OTHER BUSINESS:

1. Agent Updates (**Stormwater Ordinance, Brooklawn Park – Mosquito Control, Logal LLC, 177 Cove Street, New Bedford Youth Soccer**).

LOGAL, LLC.

Agent Porter advised that there was an issue with encroachment into the 25' no disturb zone by about 4'-5'.

Mr. Richard Rheaume of Field Engineering was present and advised that this is an existing site at the New Bedford Business Park and NWD Trucking is relocating their facility to this site at the NB Business Park and part of the project is renovating was what left of the existing building (which is the old Polaroid site). There is a valid Order of Conditions for the proposed site improvements and now the site is under construction and there are a couple of encroachments with the haybales. The contractor weighed it out by hydrants and gates; it was difficult to see exactly where he was in this

wooded area. The contractor followed the edge of the tree line and the 25' buffer. Mr. Rheume will make sure that the edge of gravel is staked out properly so it doesn't get any closer to the wetland and the rest will get restored after the fact.

Agent Porter stated that it is a narrow area and it was previously disturbed. The other areas are so narrow that if you do planting scheme you will just shade out whatever is planted. The Agent recommended doing a conservation seed mix as they go along.

Chairman Radcliffe inquired whether the site is stable. Agent Porter replied that it is stable and nothing is eroding and is all behind the hay bale line. Mr. Rheume added that it was discussed on the field that when they pull the hay bales they will seed it with conservation mix and it will handle the disturbed areas.

Mr. Rheume stated that there have been some revisions made to the plan with regard to the fueling facility. The location is in the same spot. It was originally proposed to Mr. Turner to do a 10,000 gallon subsurface tank below grade with secondary containment. Subsequent to doing that they investigated a 9,000 gallon vault in the ground that was part of the water tower with 12" thick walls with covers on top and want to do a one to one capacity. Nothing else has changed with the tank except for size and will be placing a catch basin structure in the concrete.

Mr. Rheume added that he did put notes on the plans that they will inspect it and do a water tightness test to make sure it is still water tight and they will have to seal the existing pipe penetrations. Mr. Rheume stated that they felt it was a good use of something that already existed.

Agent Porter inquired whether the Commission would consider this something that requires an Amendment or just an acceptance for the record.

Chairman Radcliffe replied that he doesn't feel there is any material difference and there isn't any consequence that hasn't already been provided to the Commission and he doesn't see a need to file an amendment. All the Commissioners agreed with Chairman Radcliffe.

Mr. Rheume questioned whether woodchips could be used for stabilization on cover in certain areas that have been disturbed and along the edges of the road as opposed to what is there now. The Commission agreed to use the woodchips as temporary stabilization but not as surface treatment.

Mr. Rheume stated that he has advised them with regard to the tree trimming that they can trim anything that is overhanging on the road. Agent Porter replied that they can trim down anything hanging into the roadway.

STORMWATER ORDINANCE

Agent Porter advised that she is a member of the stormwater ordinance review team. DPI is the department that will be responsible for administrating this permit. It's applicable to all projects except replacing a roof that is under 4,000 s.f., or a shed or items small than 500 s.f. This will be like basically getting a stormwater management standards reviewed as this Commission does for the wetlands only for your basic construction project. For example, if you are building a single family dwelling you would have to abide by this and would have to do calculations, contain stormwater for a certain year storm and do seasonal high ground water elevation estimations for your recharge facilities. The ordinance is still in the review process with the Agent, Solicitor Friedman, Zeb Arruda

and Ron Labelle. It's about 30 pages long at this time and it will have to be approved by City Council.

BROOKLAWN PARK

Agent Porter advised that Bristol County Mosquito Control would like to go up into Brooklawn Park. Bristol County Mosquito Control has an exemption under the Act where they can go and dig ditches. The Agent sent out the notice to the Commissioner and to Mary Rapoza and Carl Simmons. Mr. Simmons is a person who watches over Brooklawn Park. Agent Porter advised that the Commission does not have to allow this work. The Commission can object to it if they chose to.

Chairman Radcliffe inquired as to what the health issue is with the mosquitoes at Brooklawn Park. Agent Porter replied that the people that go to the baseball diamonds appealed to Bristol County Mosquito to come in and clean the ditches.

Agent Porter recommended having a site meeting first and that they not go into the forested area because that involves taking tree downs. When the Agent walked the area with Carl and Ms. Rapoza they saw areas that had debris dams. If they want to remove the debris dams out that is fine.

Chairman Radcliffe stated that he would like to meet them at the site along with the Agent.

177 COVE STREET

Agent Porter advised the Commission that she received a letter from SITEC because she flagged the site because a little corner of it is in the flood plain. So SITEC went out and did the flood plain verification and surveyed that it's actually above the flood plain. Panagakos owns it now. This is all an FYI for the Commission.

NEW BEDFORD YOUTH SOCCER ASSOCIATION-MORTION AVENUE

Agent Porter advised the Commission that this is a project that was before the Commission a very long time ago. The New Bedford Youth Soccer Association obtained land to put in soccer fields; they cleared the land and stopped the work because they didn't have sufficient funds to continue the project. Every single original permit has expired and they need to come back before the Commission. But because it is such a huge project the application fee would be approximately \$10,000.00. They have already been through one review process with BSC Group. Agent Porter spoke with Steve Gioiosa of SITEC and he was wondering if the Commission was going to make the applicant exempt from the filing fee as was previously done.

Chairman Radcliffe questioned whether or not another site review would have to be done and if so, they will have to pay for it. Agent Porter replied that it's been approximately 8 years and a site review will most likely be necessary.

Chairman Radcliffe suggested advising them that they will be responsible for site review fees if any and not the local filing fee. Chairman Radcliffe suggested that Agent Porter contact Nitsch Engineering and getting an estimate of their fee for this project and that will be the applicant's responsibility to pay.

FLORA B. PEIRCE TRAIL

Agent Porter advised the Commission that there was a grant given to Parks & Recreation for upgrades to the trail system. They were supposed to have to filed an application with this Commission and it was never filed. Agent Porter walked the site with Ms. Rapoza and boardwalks have been put out, trimming along the edges of the trail has been done. There is no harm done.

Chairman Radcliffe stated that he feels that the cooperation from the Parks Department is a valuable asset to this Commission and will let this slide at this time.

Agent Porter added that will be placing some minor sign posts.

Agent Porter also advised the Commission that Marty Lipman sent a letter to the Mayor with regard to the property that is for sale near Flora B. Peirce. An Order of Conditions has been issued by the Town of Dartmouth for Lot 1 and the plans propose building a home. Mr. Lipman is inquiring as to why the City does not proceed to try and acquire this land.

Chairman Radcliffe stated that he will contact Mr. Lipman with regard to any interest he may have in purchasing this property.

2. General Correspondence

A motion to adjourn was made by Commissioner Dixon at approximately 7:20 pm. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist