



City of New Bedford
Jonathan F. Mitchell, Mayor

Meeting Minutes of the Conservation Meeting of November 18, 2014 Brooklawn Senior Center

Members Present

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

Members Absent

Jacob Gonsalves

Staff Present

Agent Sarah Porter
Sandy Douglas, Administrative Specialist

HEARINGS:

Commissioner Dixon called the meeting to order at 7:00 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 UNTIL END OF MARCH, 2015 PER DPI'S REQUEST.
2. SE49-0709 - (Continued from 11/4/14) - A Notice of Intent as filed by Ronald Labelle, City of New Bedford Commissioner of Public Infrastructure for property identified as Turners Pond dam (Right of Way of New Plainville Rd and Polocz Blvd., Map 124-Lots 1, 21 and 62.). Applicant proposes to conduct dam maintenance of the Turners Pond dam which involves clearing vegetation in Resource Areas and the Buffer Zone. Representative is Andrew Poyant of CDM-Smith.

Mr. Andrew Poyant of CDM-Smith was present on behalf of the applicant. Mr. Poyant stated that he was present before the Commission at the last meeting and that as he previously advised the Commission, the Office of Dam Safety regulations do not allow for trees, shrubs or woody vegetation to be on pond dams or within 20' of the tow of slope. The dam is at Turner's Pond and they will be doing the vegetation clearing of all woody species within 20' of the tow of slope. The city will be doing the work. There was a site visit and it was proposed to show limit of work with erosion controls. The northern side will be done first because it's easier to get at and then they will do the southern side. After the erosion controls are in, they will do brush clearing on the slope in order to be able to access the trees that are further in,

will cut down the trees with chain saws to base of tree and as low to the ground as possible. The bigger trees will be treated to prevent root decay and anywhere within the 20' tow of slope they will cut the tree to the limit of 20'. Seed will be done as needed with wetland seed mix or con com habitat seed mix.

Chairman Radcliffe stated that he was not able to attend the site meeting but he and Agent Porter did look at the area approximately one week ago. The process for handling the northern slope is not going to be problematic but is very concerned with the resource area on the south. The Flora B. Peirce property is one of a very few gems that the City owns and was concerned about the use of heavy equipment. Mr. Poyant stated that they are not going to use any heavy equipment, nothing will be driven in.

Agent Porter stated that the Operation and Maintenance Plan was received today and she has not had an opportunity to review it. It is in draft form and still has to go through internal CDM review and then to DPI. Agent Porter was unsure whether the Commission was willing to approve a document that was in draft form.

Chairman Radcliffe replied that he would not want to approve a draft.

Mr. Poyant stated that it will also have to be reviewed by the Office of Dam Safety.

Chairman Radcliffe inquired whether the work would be coordinated so that all the work would be done in New Bedford and Dartmouth simultaneously. Mr. Poyant replied that they would like to commence the work as soon possible, within late winter, early spring and would like to do all the work at once.

Chairman Radcliffe stated that he is concerned with them working in the resource area during the Spring and would like to see that work done while the ground is still frozen. Agent Porter agreed with Chairman Radcliffe and added that at the site meeting it was agreed that the trees located at the southern limit of the BVW would be dropped into the wetland area so they would not have to drag them out.

Chairman Radcliffe suggested that this project be conditioned with specificity so that it is clear to all parties and then have a site inspection.

Commissioner Audette stated that DPI is going to piece this project in when they can because of other project that may be going on in the City. DPI is not going to be able to start on a specific date and end on a specific date.

Commissioner Dixon commented that it seems that it will take a long time for DPI to conduct the work from what they were discussing at the site visit.

Commissioner Audette stated that he agreed with Commissioner Dixon's comment that it was explained how the process would be done and that DPI could confirm a timeframe, start date or end date.

Chairman Radcliffe suggested that Mr. Poyant, Agent Porter and the DPI Commissioner get together and work on the special conditions so that they are feasible and still protect the resource area. Once said conditions are in place, this Commission may proceed.

Agent Porter stated that all the work in the BVW has to be done during frozen conditions. They can work on the slope and upland forested areas but not in the BVW. Chairman Radcliffe stated that he is not interested in having unreasonable conditions but conditions that protect the resource area and feels that said conditions can be worked out amicably and in a short period.

Agent Porter advised that the Flora B. Peirce trail has to be kept open upon completion of the project and that will be one of the conditions. The ongoing maintenance condition need to be drawn up and reviewed by the Commission. Also need a full operation and maintenance manual. Agent Porter suggested writing into the Order excerpts from the operation and maintenance plan because the draft is going to remain a draft until DCR approves it.

Commissioner Dixon made a motion to continue this hearing until December 2, 2014. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

3. SE49-0710 - A Notice of Intent as filed by Dave Flewelling of Comcast Cable Communications for property identified as the Right of Way of John Vertente Boulevard, New Bedford, MA 02745. Applicant proposes to install a utility conduit with associated equipment in the Riverfront Area and Buffer Zone. Representative is Mark Manganello of LEC.

Mr. Mark Manganello of LEC was present together with Dave Flewelling of Comcast and Claire Staines also of LEC who assisted with the wetland delineation. Mr. Manganello advised that the NOI is for installation of cable conduit in the John Vertente Boulevard ROW. The project will connect to the existing line on the pole with an electric easement. There will be overhead wire connection to a new proposed pole at the southern end and at that point it will go into an underground trench. The trench will be within the paved footprint of the existing roadway with 2'-4' of the edge of pavement. The trench will be about 2' wide; 3' deep, the cable conduit is a 4" PVC pipe that will be sent down approximately 30". The resource area associated with this project includes the riverfront area, BVW, bank and land under water associated with the streams. The purpose of this project is to provide cable service to the buildings.

Mr. Manganello continued to state that an onsite meeting has been conducted with Agent Porter. The proposed erosion control on the plans is straw waddles along the limit of work from beginning to end. Natural Heritage has sent a letter confirming that this project is exempt.

Agent Porter stated that is a grassy shoulder of the ROW, it's all flat and there is no potential for erosion there. Agent Porter stated that she did walk the site of the wetland boundary with Mr. Manganello and looked at the areas that they will need to excavate and they will need to place vault boxes in a couple of areas. It's a straight forward utility installation project.

Mr. Flewelling stated that there is at least one customer that is signed up for the service and there are additional 3-4 potential customers. Mr. Flewelling is hoping that this application will be approved and they are hopeful that they will be able to complete the work in this construction season. They are hoping to commence the work as soon as possible.

Agent Porter inquired whether or not there would be any need for dewatering. Mr. Manganello and Mr. Flewelling both replied that there would not be any need for dewatering and that the water table is low.

Agent Porter advised that if there is any need for dewatering that they would need to contact her and this will be a special condition. Agent Porter added that upon completion of the cable installation, weed free straw mulch shall be spread over the disturbed areas for the winter and to be followed up by loaming and seeding next Spring with a perennial grass seed mix. The Plans for approval are Wetlands Plan Sheet 1-6 of 6 with a revised date of 11/4/2014.

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

OTHER BUSINESS:

1. Agent Updates (Gifford Street Boat ramp, Maritime Terminal Certificate of Compliance, City Wetlands Ordinance)

GIFFORD STREET BOAT RAMP

Agent Porter advised the Commission that the Gifford Street Boat Ramp currently has an Order of Conditions for the Division of Marine Boating for work with the Harbor Development Commission to come up with a boat ramp that facilitates deeper vessels and they need to re-work the approved plans and are inquiring whether or not they will need to file an amended order. Agent Porter advised that she looked in the MACC guidelines and the DEP wetlands policy guidelines for amended orders and it's a substantive change.

The Commission agreed that they will need to file an amended order.

MARITIME TERMINAL CERTIFICATE OF COMPLIANCE

Agent Porter advised the Commission that they had issued a partial Certificate of Compliance for the Maritime Terminal a while back and now they cannot get a clear title in order to be able to conduct a closing.

Chairman Radcliffe inquired if all of the proposed work has been completed. Agent Porter replied that only a partial Certificate of Compliance was issued because they did not complete the work on the easterly side.

Agent Porter advised that she spoke with Attorney Friedman because repair work has not been completed along the East side of the bulkhead. They are requesting a statement that it's not a violation under the Wetlands Protection Act that the work has not been completed. Chairman Radcliffe replied that it is a violation. Agent Porter advised that it is not considered a violation because they are not required to do the proposed work and they are not under an Enforcement Order.

Agent Porter confirmed that they are just requesting said statement and not requesting a full Certificate of Compliance at this time.

The Commission agreed to issue said requested statement.

CITY WETLANDS ORDINANCE

Agent Porter advised that the DEP has changed their methods for abutter's notification. At this time, Agent Porter provided each of the Commissioners with a copy for their review.

Agent Porter advised that there is a meeting scheduled at DEP office in Lakeville on Thursday at 10:00 am with regard to the new regulations and that she will be attending.

Agent Porter stated that these new regulations will have to be incorporated into the local wetlands by-law.

2. General Correspondence

Agent Porter advised that the Conservation Commission has received several notifications from the Solicitor's Office regarding land that has activity and use limitations. The Conservation was notified of these specific properties because there are Orders of Conditions on them but the Commission is not responsible to do anything with said notices.

FLORA B. PEIRCE TRAIL

Chairman Radcliffe stated that he has been thinking about the property that abuts the Flora B. Peirce Trail and perhaps the DNRT in Dartmouth should be apprised of the letter that Marty sent to the Mayor. Chairman Radcliffe will contact DNRT.

A motion to adjourn was made by Commissioner Dixon at approximately 8:00 pm. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist