



Environmental Stewardship Department/  
Conservation Commission

City of New Bedford  
Jonathan F. Mitchell, Mayor

Meeting Minutes of the Conservation Meeting of  
December 2, 2014  
Ashley Conference Room, City Hall

**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:**

Chairman Radcliffe called the meeting to order at 6:25 p.m. Chairman Radcliffe advised that Other Business will be conducted at this time and the hearings will commence at 6:30.

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, 9/16/14, 10/7/14, 10/21/14, 11/4/14 & 11/18/14) - 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. (Continued from 11/4/14 & 11/18/14) - 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 and gave a quick review of the project since he was before the Commissioners at the last meeting. Mr. Poyant advised that an onsite meeting was conducted with Agent Porter and it was discussed that the proposed work would be done on foot rather than building up an access road and going in with swamp mats and construction vehicles. DPI will be using chainsaws to cut down the trees as low to the ground as possible and some of the trees that are closer to the edge on

the South side will be pulled out and the remainder of the trees will stay. The trees will be pulled out from a backhoe from the street. The Office of Dam Safety would like all the work complete by the spring. At the last meeting the Commission had requested that the work be done during frozen ground conditions. Mr. Poyant advised that DPI doesn't feel that it would be safe to conduct this work during frozen ground conditions.

Mr. Poyant requested that one of the conditions be that the Agent visit the site after all the clearing is done before commencing any seeding.

Mr. Poyant advised that it will take approximately 1 ½ months to clear the 6,000 s.f. BVW area.

Chairman Radcliffe stated that he understands DPI's safety concerns and this Commission is willing to accommodate that part of it.

Commissioner Pacheco inquired as to occur if they were not able to meet the deadline because of the weather.

Mr. Chuck Alesburge of CDM Smith was present and replied that the Office of Dam Safety has been very flexible with this project and feels that if for some reason there is an issue with meeting the deadline that they would be able to work something out with the Office of Dam Safety. There is no penalty if the work is not complete.

Commissioner Audette commented that Zeb Arruda could not give an exact date when to commence the work and what would happen if they commence the work and then are not able to continue the work what is proposed to stabilize the bank until DPI can get back to finish the work. Commissioner Audette stated that he would like to see a proposed plan for this. Mr. Poyant replied that the plan is to cut the shrubs and saplings first and get those out and then go in deeper to cut the trees.

Chairman Radcliffe stated that this plan will be added as a condition.

Agent Porter recommended the following conditions along with the ones that had been forwarded to the Commissioners for their review: 1) that all work areas be stabilized utilizing erosion controls as required; 2) that the Conservation Commission Agent inspect the BVW during clearing to insure that all exposed soils have been smoothed out and seeded. The Plans for approval are Figure 5 New Bedford Clearing Plan and document for approval is Draft Turner Pond Operation and Maintenance Plan dated 11/20/2014.

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

**3. A Request for an Amended Order of Conditions (SE49-0551) for property located on Dana Street (Map 125A, Lot 473).** Applicant proposes to widen the gravel driveway, revise the stormwater drainage and move the house in the Buffer Zone. Representative is Richard Riccio of Field Engineering.

Mr. Richard Riccio of Field Engineering was present and stated that this Amended Order of Conditions is for a project that was approved in 2005 for a single family dwelling at the end of Dana Street. This project has been back and forth with DPI and the Building Department with regard to the zoning issues on the property. The applicant has to go before the Zoning Board for a Variance for frontage reduction. But before that can be done, the gravel driveway needs to be in place. Mr. Riccio advised that there are three changes to the previously approved plan. The changes are: 1) the width of the driveway has been

changed from 12' wide to an 18' wide so that it can provide more adequate access for emergency vehicles; 2) with regard to the detention area had stormwater management area within the layout of Dana Street which was an above ground pond and upon DPI reviewing previous plan decided they did not want that within their layout and requested the applicant explore other options. So the applicant is now proposing a crushed stone driveway, an edge drain system with a perforated pipe so the water would flow into the crushed stone system. The water coming from Dana Street will also flow off into a rip rap area and then flow to the trench. Mr. Riccio added that there is 10% more storage in the new configuration as opposed to what was previously approved. and 3) the house is now being rotated 90 degrees so that it faces the Dana Street and it is being situated further to the South. The house is pushed back to provide a wider driveway. The house is now smaller than originally approved it will be 24' x 44' raised ranch. They were also able to save one additional tree.

Agent Porter commented that the drainage as revised should work.

Chairman Radcliffe inquired whether it would be worth to have the Commission's consultant review the drainage and hydrology.

Mr. Riccio stated that a consultant did not review this project on the original submittal and that he does have the hydrological calculations that show this amended proposal has additional storage capacity than was originally approved. Mr. Riccio continued to add that this is a relatively simple project and they are aware of drainage issues that have occurred in the past on Dana Street and are looking to improve that as best they can by providing an apron off the edge of the road and tying that runoff to a trench.

Chairman Radcliffe stated that he did review the calculations and they indeed increased the capacity but would feel more comfortable if those calculations were verified by a third party.

Chairman Radcliffe inquired as to the timeframe for this project. Mr. Riccio replied that there is one year left on the Order of Conditions and they would like to get the driveway constructed.

Chairman Radcliffe stated that he would like to send this out to Nitsch Engineering for review. Mr. Riccio didn't object to the change being reviewed by Nitsch Engineering.

Commissioner Audette stated that he would like to see a condition that the swale is maintained by the property owner. Mr. Riccio agreed that it would be the homeowner's responsibility to maintain the driveway and the drainage system and that it would be an ongoing condition.

Chairman Radcliffe inquired whether there was anyone present who wished to comment on this matter. Mr. Jim Gracella an abutter was present and stated that his concern is the water rushing down the street. There are two street drains that have been blocked off. Mr. Gracella inquired whether the new system would alleviate this problem. Mr. Riccio responded that the new system provides more storage capacity and it's also going to open up the end of the road to get the water out of there quicker.

Commissioner Dixon made a motion to submit this application for peer review to Nitsch Engineering. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Commissioner Dixon made a motion to continue this matter to December 16<sup>th</sup>. Motion was seconded by Commissioner Dixon. All in favor. Motion carries.

**4. A Request for Determination of Applicability as filed by MAE Realty for property located at 22 Antonio Costa Ave. (Map 66, Lot 128 & 136).** Applicant proposes to construct an equipment platform above the loading dock in the Buffer Zone to the Acushnet River. Representative is John Folino of Cape Building Systems.

Mr. John Folino of Cape Building Systems was present together with Mr. Peter Anthony of Eastern Fisheries.

Mr. Anthony advised that they are moving from nitrogen system to a mechanical system and need to build platform for equipment.

Mr. Folino advised that they intend to build 6 concrete piers to support the legs of the platform. Mr. Folino showed the Commission on the plan as to where the platform would be built.

Commissioner Audette inquired whether the entire nitrogen system was going to be removed. Mr. Anthony replied that the nitrogen system is leased and will be returned to the company.

Chairman Radcliffe inquired as to how the mechanical refrigeration system works. Mr. Anthony replied that it's known as a cascade system and is run by a compressor.

Mr. Folino advised that there would be no change to the impervious cover.

Chairman Radcliffe confirmed that the applicant is replacing the system whose impact on the resource area currently is the bringing in of a truck several times a week and is replacing it with a mechanical system that will require some maintenance from time to time. Chairman Radcliffe inquired if there would be a possibility of a spill and if there is what is the proposed action. Mr. Anthony replied that any spill would be addressed right away because they have mechanics on site.

Agent Porter advised that they are not disturbing the earth, all the work proposed is on existing paved or concrete structure.

Mr. Folino advised that he intends to install haybales. Agent Porter recommended that the haybales be installed from the north property boundary to the southern existing building immediately east of the proposed structure.

Agent Porter recommended the issuance of a negative determination that the work proposed is within the buffer zone and shall not alter the adjacent resource area provided the haybales are installed from the north property boundary to the southern existing building immediately east of the proposed structure and inspected by the Agent prior to work commencing. The Plans for approval are Existing Conditions Plan dated 6/19/2014 sheet A-1.1 by Cape Building dated 10/22/2014 and drawings S-1F, 1.1, S-2 dated November 10, 2014.

Chairman Radcliffe inquired whether there was anyone present who wished to comment on this matter. None heard.

Commissioner Dixon 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.

- 5. A Request for Determination of Applicability as filed by Dave Flewelling of Comcast Cable Communications for property located at 125 Samuel Barnet Boulevard (Map 133, Lot 46).** Applicant proposes to install a linear cable conduit and associated equipment in the Buffer Zone and Riverfront Area. Representative is Mark Manganello of LEC Environmental.

Ms. Claire Stains of LEC Environmental was present and advised that the work proposed is an extension from a previously approved NOI. It will extend from the John Vertente right of way approximately 57' onto an existing industrial building at 125 Samuel Barnet Boulevard. The erosion controls will continue along the wetland resource area. There will be no vegetation clearing or altered within the project footprint.

Agent Porter stated that this is off shoot of the Comcast NOI submitted at the last meeting. They are proposing a conduit in the existing driveway and in a portion of the grassy shoulder adjacent to John Vertente Boulevard to connect the cable from John Vertente Blvd., to the West side of the building. Most of the work is within an existing paved driveway. Straw waddles are proposed.

Agent Porter recommended a negative determination with special conditions that the straw waddles be inspected after installation and prior to any work start-up, the disturbed grassy areas shall be loamed and seeded. The Plans for approval are 125 Samuel Barnet Blvd., New Bedford, MA Comcast Plan dated 11/11/2014.

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

- 6. A Notice of Intent as filed by Ronald Labelle, Commissioner of Public Infrastructure for the City of New Bedford for property known as the Sawyer Street Outfall (Map 93, Lot 265).** Applicant proposes to install a tide gate in the existing Combined Sewer Overflow which discharges into the Acushnet River. Representative is Danielle Gallant of CDM Smith.  
**CONTINUED PER APPLICANT'S REQUEST.**

## **OTHER BUSINESS:**

- 1. Agent Updates (forms for Orders of Conditions, abutter notification).**

Agent Porter inquired whether the Commissioners had an opportunity to review the forms for Orders of Conditions from other towns. These are the templates forms that the Towns send out when they issue an Order of Conditions reminding the applicants of their responsibilities. All the Commissioners reviewed the forms.

Chairman Radcliffe commented that he feels the forms could be simplified.

### **302 Herman Melville Boulevard**

Agent Porter advised that there was an oil spill out there last Monday and DEP was called to take care and document the oil spill. While DEP was down there they noticed sunken barges sitting at the bottom of the river and there are some piles of debris on the barges. Agent Porter did visit the site and has drafted an Enforcement Order but will not issue it until she completes her fact finding.

Chairman Radcliffe inquired as to who the property owner is. Agent Porter advised that the City of New Bedford Harbor Development is the property owner and that Tucker Marine Towing and Salvage is the people that are using and leasing the area.

Agent Porter stated that when she was out there, DEP, the Fire Department, the Coast Guard and many other Departments were also there. This may be a Chapter 91 violation for using the barges as a pier rather than as a barge. Frank Corporation was out there and emptied out all the drums.

A meeting is proposed to take place next week with all the involved parties and Agent Porter called Tena Davies and she referred her to the Chief of Wetlands and Waterways. Agent Porter left her a message and has not heard from her yet. Agent Porter inquired as to how the Commission would like to move forward with this.

Chairman Radcliffe inquired whether there are any Orders of Conditions in effect for this property. Agent Porter replied that there isn't any that she could find and that they need to do something about the barges that are sitting there.

Chairman Radcliffe suggested that it needs to be determined as to who the violator is and who is responsible for allowing this activity to take place and maybe this could be determined at next week's meeting.

Agent Porter advised that its City property and it is managed by the Harbor Development Commission. Agent Porter stated that the proposed extent type of activity listed on the Enforcement Order is dismantling boats on barges which are grounded on the bottom of the Acushnet River on land under the ocean and in a designated port area. One barge is partially submerged in high tide flooding piles of metal and wood debris which washes into the DPA altering the water quality. This type of alteration is not in conformity to 3.10 CMR 10.26 3D and, in addition, during storm events, materials are subject to storm flowage to wash ashore damaging adjacent property. Also, permitting stormwater runoff from adjacent uplands to erode the coastal bank thereby introducing sediment from soils into a DPA altering water circulation and quality. Other barges are also grounded and all grounded barges are adversely impacting water quality circulation in the DPA impacting Marine Fisheries habitat.

Chairman Radcliffe inquired as to how many barges are out there. Agent Porter replied that she is not sure there may be approximately 4 or 5. Agent Porter also advised that she can arrange an on-site visit for the Commissioners.

Chairman Radcliffe suggested that all the facts need to be in place before any violation is issued and that this matter be continued to the next meeting.

### **Abutter Notification**

Agent Porter advised that she forwarded the Abutter Notification Form to Attorney Friedman and she has not had an opportunity to review it.

## **2. General Correspondence ( 2015 Conservation Commission Meeting Agenda)**

Agent Porter informed the Commissioners that the 2015 Meeting Agenda was included in their packets.

A motion to adjourn was made by Commissioner Dixon at approximately 7:55 pm. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Respectfully submitted,

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Sandy Douglas  
Administrative Specialist

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