



Environmental Stewardship Department/  
Conservation Commission

City of New Bedford  
Jonathan F. Mitchell, Mayor

Meeting Minutes of the Conservation Meeting of  
April 7, 2015  
Brooklawn Senior Center

**Members Present**

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

**Members Absent**

Paul Pacheco

**Staff Present**

Agent Sarah Porter  
Sandy Douglas, Administrative Specialist

Chairman Radcliffe called the meeting to order at 6:32 p.m.

**OLD BUSINESS:**

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, 12/2/14, 12/16/14, 1/6/15, 1/20/15, 2/3/15, 3/3/15) - 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 MAY, 2015 PER DPI'S REQUEST.**
2. Draft Sassaquin Pond Watershed Ordinance – Scott Turner of Nitsch Engineering to discuss the Ordinance with the Commission.

Mr. Scott Turner of Nitsch Engineering was present and stated that he broke up the draft into three different areas.

Commissioner Audette stated he gave this to UMass Dartmouth and they compared Mr. Turner's comments and feel that this is going in a total different direction. Before we were looking for the City to do a lot of the work and now this is shifting the burden onto the homeowners. In another week the first complete study will be done on the pond. Now will start to see where the stuff is coming out of the pipes, they flow rates and garbage rates. According to the ordinance if a homeowner wants to cut down a tree in there backyard, they would have to file an application before this Commission.

Mr. Turner said that one of the things he has said all along is that the problems that are occurring in the pond are a combination of things, like result of stormwater that is collected by the City system as well as the activities by the individual property owners around the pond. Mr. Turner stated the report recommends different type of BMPs to install, provide regulatory framework for sustainable growth management in the Sassaquin Pond watershed, develop and implement a Watershed Protection Ordinance to accompany the recent designation of Sassaquin Pond watershed as an “Area of Critical Environmental Concern.” There are other recommendations on Page 63 of the study. There is no clear blame on any one and it’s more of an assessment of what the causes of the problems are.

Mr. Turner stated that he has said it at every public meeting that he’s been to, that this is a combination of the City’s stormwater collection system discharging and for areas that border the pond discharge directly into the pond. Mr. Turner stated that there is pollutant load in the report.

Mr. Turner has reviewed the Ordinance and researched approximately 15-20 ordinances in Massachusetts and other parts of the Country including North Carolina, Arkansas, Virginia, Illinois, and New Hampshire. Mr. Turner stated that this Commission has to decide what it feels is the right level of protection and how stringent it wants to be.

Mr. Turner continued to state that the memo speaks about the structure of the ordinance, performance standards and then the administration of the ordinance. Mr. Turner agrees that the more trees you take down the more damage will be done to the watershed. But these are decisions that individual property owners have to make that live in the watershed as to how aggressive they want to be to protect this resource.

Commissioner Audette wants to see the City do what they have promised they would do in the past.

Chairman Radcliffe stated that the ordinance will have to be written with specificity.

Mr. Turner added that these are not recommendations but an evaluation of what was done before and things that they feel were not necessarily covered and things that need to be considered. One of the things the Commission has to determine is how it wants to go about doing this and if you want to include public participation. Mr. Turner advised that an Ordinance empowers the body to make the rules and regulations, to enforce and administer the regulations.

Chairman Radcliffe stated that the Ordinance has to be specific and suggested inviting the input and advice of Councilor James Oliveira and DPI.

Chairman Radcliffe stated that the other issue is that the City itself is a large contributor to the problems with Sassaquin Pond. The regulations in the Ordinance that would govern what and how the City treats the runoff is something that looks like it would be totally ineffective.

Mr. Turner replied that that the stormwater management guidelines by State Statute under the Wetlands Protection Act apply to certain resource areas including the 100’ buffer zone, wetlands, 200’ riverfront area, floodplains and so forth. A lot of municipalities have incorporated a local bylaw that makes the stormwater management standards applicable to the entire municipality. Right now this Commission has jurisdiction over 100’ feet from the wetlands. The watershed protection ordinance will give this Commission jurisdiction over the entire watershed. The Ordinance needs to apply to the entire watershed and whatever DPI does in the buffer zone or not, they would have to come before this Commission to get a permit.

Chairman Radcliffe stated that there are things that this Commission and DPI need to work together.

Mr. Turner stated that if you are in the buffer zone to Sassaquin Pond, the homeowner will have to get apply for a Notice of Intent and then a Stormwater Permit from DPI and then possibly the Sassaquin Watershed permit and it will make it difficult for anyone to get stuff done. Chairman Radcliffe stated that there might be a way to have a joint application with DPI. Agent Porter stated she has spoke with Jill Maclean, the City Planner, with regard to a joint application and they want to keep Sassaquin Pond separate.

Mr. Turner stated that he is surprised that this Commission is looking for an ordinance that will compel DPI to do the work that this Commissions wants them to do. Commissioner Audette replied that they are under a court order to do the work.

Mr. Turner advised that if the Commission would like to open it for public process, it will have to advertise it to the entire watershed.

Chairman Radcliffe suggested conferring with Jane Friedman, City Solicitor, as to whether or not Commissioner Audette needs to recuse himself from this matter since he lives on the pond. Agent Porter will speak with Attorney Friedman. Chairman Radcliffe also suggested asking Attorney Friedman whether or not the discussion of the ordinance can be done in executive session.

The Commission will consider Mr. Turner's recommendations and suggestions and continue to review the Ordinance and will address this matter again at the next meeting.

## **CONTINUED HEARINGS:**

1. **(SE49-0711) - (Continued from 12/2/14, 12/16/14, 1/6/15, 1/20/15, 2/3/15, 3/3/15) - 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 UNTIL FURTHER NOTICE PER APPLICANT'S REQUEST**

## **NEW HEARINGS:**

None.

## **NEW BUSINESS:**

1. **Buttonwood Park proposed trails and improvements – Friends of Buttonwood to informally present project to the Commission.**

Ms. Jeanne Bennett of 749 Purchase Street, New Bedford, MA and Anne Eades, President of Friends of Buttonwood of 10 Rowley Lane, Dartmouth, MA was present.

Ms. Bennett advised the Commission that they would like to create an open space trail system in the area north of the warming house.

Everything north of the warming house and north of the pond from the warming house all the way to Route 6 would be the project area. She was told by the DPI that is approximately 13.3 acres. The Park is 97 acres and the pond takes up 10 acres and the zoo is approximately 10 acres. This is a sizeable piece of park land that has been underutilized for many years. They are proposing to develop the rest of the Master Plan. In 1985 the Park was given \$1,300,000.00 to develop a Master Plan and the Friends of Buttonwood Park were the stewards of the plan at that time. There was an agreement with the State that Friends of Buttonwood Park would carry out this plan. The beginning of the master plan created the great lawn and moved the tennis courts. At that time the Master Plan called for nature plans through the area but there wasn't enough money to do that. The Friends of Buttonwood Park have engaged a Landscape Architect by the name of Ray Dunetz. Mr. Dunetz has toured this area with 6-7 members of the Friends of Buttonwood Park and Mary Rapoza of Parks and Recreation. Mr. Dunetz has provided a very comprehensive plan of the things that need to be done before he can create a Master Plan for this site. Mr. Dunetz will charge \$35,000.00 to create this plan. The preliminary work can be done by the City and are now waiting for the City to do some of that work.

In order to keep the momentum going would like to begin the project by focusing on the tree farm. This is an approximately 1 acre parcel that goes from one house lot to another other house lot and it was designated the tree farm many years ago. Some 2,000 evergreens were planted and 125 trees and this is now a very nasty place, the neighbors throw their yard waste in there now. This summer they would like to collaborate with the Trustees for Reservations, Buzzards Bay Coalition, the Youth Corp., and others who would like to help get rid of all the trash and try to figure out what types of trees have survived in there and what to do with them.

On May 21<sup>st</sup> there will be a public program to inform the neighbors what the Friends of Buttonwood Park's Intentions are.

Agent Porter stated that it has to be determined whether or not this parcel is within the buffer zone. Chairman Radcliffe feels that it's not close to the buffer zone. Chairman Radcliffe suggested that he and Agent Porter walk the site some time next week.

Chairman Radcliffe stated that he does not know if any of it will come before this Commission's jurisdiction and feels that conducting a site visit first is what's best before making any decisions.

## **2. Agent Updates**

### **SMUGGLER'S DEN**

Agent Porter advised the Commission that the Department of Environmental Affairs issued a certificate for the proposed floating dock system, and seasonal tiki bar at Smuggler's Den. DEP stated that the wetland issue can be handled through permitting and didn't have any issues under MEPA. The Department of Marine Fisheries didn't have any comments because the docks are greater than 2 ½ feet above the ocean floor. The City's Shellfish Warden might feel differently. Coastal Zone Management recommended that they use conservation moorings. These are moorings don't allow scouring at the bottom of the bay.

### **DREDGE PROPOSAL**

Agent Porter advised the Commission that she went to a meeting last Thursday on a dredge proposal off of Pope's Island for a 5 acre site. It would be for fishing vessels but they are still at the beginning of permitting process. A portion of this project will come before the Commission.

### **FISHERMAN'S MEMORIAL**

Agent Porter advised the Commission that Chapter 91 License is out for the Fisherman's Memorial a/k/a Monkey's Island. There is a comment period. The plans are the same ones that were filed with this Commission.

### **DANA STREET**

Agent Porter advised that this matter went before the Zoning Board. The Zoning Board granted the approval for the street access but a portion of the driveway has to be paved and they proposed a gravel driveway to this Commission. Mr. Rich Riccio sent Agent Porter revised plans showing the portion that will be paved. Chairman Radcliffe inquired as to why it has to be paved. Agent Porter replied that it needs to be done because of emergency vehicle access. Agent Porter advised that they will have to make the trench another foot wider and inquired whether the Commission would like the applicant to file an Amended Order.

Chairman Radcliffe suggested the applicant file an Amended Order. The Commissioners agreed.

### **HASKEL FARMS**

Agent Porter advised the Commission that there has been a change made to the Haskell Farm Conservation Restriction. Agent Porter read the suggested change. The Commission does not have an issue with the language change.

### **3. General Correspondence**

A motion to adjourn was made by Commissioner Dixon at approximately 7:45 pm. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

Respectfully submitted,

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Sandy Douglas  
Administrative Specialist