Environmental Stewardship Department/
Conservation Commission

City of New Bedford
Jonathan F. Mitchell, Mayor

Meeting Minutes of the Conservation Meeting of August 18, 2015 Brooklawn Senior Center

Members Present	**Members Absent**	**Staff Present**
John Radcliffe, Chairman		Agent Sarah Porter
Craig Dixon, Vice Chairman		Sandy Douglas, Admin. Specialist
Dennis Audette		
Paul Pacheco		
Jacob Gonsalves		

Chairman Radcliffe called the meeting to order at 6:30 p.m.

OLD BUSINESS:

1. **Draft Sassaquin Pond Watershed Ordinance**

Commissioner Dixon updated the Commission that there was a two hour meeting with Scott Turner, Agent Porter, Michael Frye and Commissioner Dixon to review Nitsch's comments with regard to the Watershed Ordinance. And have decided that they are not going to latch on amendments to the ordinance it will something entirely new and on its own. Commissioner Dixon has commenced a draft based on Nitsch's comments and Agent Porter's write up.

Chairman Radcliffe stated that someone from DPI should also be involved. Mr. David Fredette replied that he will bring this to DPI's Commissioner's attention.

Mr. Fredette inquired if this Ordinance would be to just protect Sassaquin Pond. Chairman Radcliffe replied that was correct.

CONTINUED HEARINGS:

1. **(Continued from 7/7/15, 7/21/15, 8/4/15) - A request to Amend Order of Conditions SE49-0702 as filed by Eric DeCosta of Logal, LLC for property identified as 100 Duchaine Boulevard (a.k.a. a portion of 50 Phillips Rd) Map 133, Lot 15.** Applicant proposes to maintain stockpiles in the Buffer Zone to Bordering Vegetated Wetland and extend a rip rap apron associated with Wet Basin Number Two. Representative is Richard Riccio of Field Engineering. **CONTINUED PER REPRESENTATIVE'S REQUEST.**

NEW HEARINGS

1. **A Request for an Amended Order of Conditions (SE49-0704) as filed by Ron Labelle, Commissioner of Public Infrastructure for property identified as Fisherman's Memorial (Map 6, Lot 2) on East Rodney French Boulevard.** Applicant proposes to modify the landscaping plan and the proposed promenade. Representative is Andrew Poyant of CDM Smith.

Ms. Kim Drake of CDM Smith was present and stated that there have been some revisions to the proposed project. There had been some concern with regard to the height of the platform, it is now proposed that the platform will be moved back and the elevation is being lowered about 3'. The evergreen trees will now be removed to help with the view restriction. The modifications that are now being proposed is changing the height, the elements that are particular to the Wetlands Protection Act is the work being done on the pier to replace/repair or fix stones and the drainage system will remain the same.

Agent Porter stated that the impact to the resource area has not changed. It is just a reduction in the height of the promenade and the removal of pine trees.

Commissioner Audette stated that the last time the applicant was before this Board, there was a question as to how the work was going to be performed. Ms. Drake replied that the work is being done during low tide, any work that has to be performed from the water side will be done by boat, and the stone will be removed and replaced from the top of the pier. As stated in the Order of Conditions, they have protection of the edge of the beaches.

Chairman Radcliffe replied that how the work is to be performed is in the original Order of Conditions and that is not being modified.

Ms. Drake stated that they are waiting for the Chapter 91 License before they can commence any work.

Agent Porter recommended issuing an Amended Order of Conditions with all Conditions as stated in the original Order of Conditions and the Plans for Approval are dated 8/5/2015.

Chairman Radcliffe inquired whether there was anyone present who wished to comment on this matter.

Mr. Harvey Kertzman of 1147 Rodney French Boulevard was present and stated that he opposes this project. Mr. Kertzman feels that this statue is going to obstruct the view that so many come to enjoy on a daily basis. He is not opposed to the statue but just to where the statue is being placed. Mr. Kertzman would like the view to be preserved and not block the lighthouse and not raise the pier. He feels that by the City raising the pier it is going to kill the view.

Chairman Radcliffe thanked Mr. Kertzman for his concerns and explained to him that his concerns and arguments are about the aesthetics and sighting and those are not concerns that come before this Board. This has already been determined by this Board that the resource area is protected and the conditions have already been issued. Today's hearing is only for a modification of the original plan that was already approved. Chairman Radcliffe advised that Mr. Kertzman should have made his argument to the Planning Board, Zoning Board or City Council and not this Commission. And that this Commission is satisfied, after a number of hearings that have taken place that the resource area is well protected.

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

2. **A Notice of Intent as filed by Raymond Gramlich, Jr. for property identified as the west side of Acushnet Avenue (Map 132-I, Lot 35).** Applicant proposes to construct a single family dwelling with associated landscaping and utilities in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Greg Nicholas of Southcoast Engineering.

Mr. Raymond Gramlich, Jr., was present and advised that his engineering is away. Mr. Gramlich advised that his engineer spoke with Agent Porter this afternoon and he believes that everything is in order. Mr. Gramlich advised that his son passed away in March and has three children and he is proposing to build this 24' x 48' raised ranch for his grandchildren to live in.

Chairman Radcliffe stated that roughly 25% of this home is in the buffer zone. Mr. Gramlich replied that was correct.

Chairman Radcliffe inquired whether the infrastructure and sewer line is already in place. Mr. Gramlich replied that the sewer line and water line is in place.

Agent Porter advised that there are two site plans for approval for same dwelling but one plans just shows the roof infiltrator that she asked for. Agent Porter also advised that the garage and driveway is outside the buffer zone.

Mr. Gramlich advised that he would like to have the house built by November 15, 2015.

Agent Porter advised that as part of the Wetland Protection Act and protection of the resource area because the closest point is approximately 62' away from the edge of the wetland, she does not have a lot of concern with regard to impacts from construction to the wetland area which is already fenced off. Agent Porter recommended the issuance of a standard Order of Conditions.

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

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

3. **SE49-0716 - A Notice of Intent as filed by Bridge Real Estate Investors, LLC for property identified as 12 Fish Island (Map 60, Lot 1).** Applicant proposes to construct a pile supported commercial pier facility in Land Under the Ocean, Land Subject to Coastal Storm Flowage, on a Coastal Bank and in a Designated Port Area. Representative is David Davignon, P.E. of N. Douglas Schneider and Associates.

Mr. Douglas Schneider was present together with Mr. Rick Miller. Mr. Schneider advised that the applicant is looking to construct a pile supported pier 213' long and 20'-30' wide. There was a Chapter 91 License granted back in the 1960s for a solid pier but it was never constructed. There is also a small building that will be demolished, the pavement in that area will get pulled out and piles will be driven with concrete decking connecting the piles and then extending over to the current paved area. Also will

like to do a little bit of work in the corner by driving some sheet piles against the face that is existing and do some maintenance.

Mr. Schneider advised that they have submitted to the Army Corps of Engineer for their review and have to submit to Chapter 91 Waterways.

Agent Porter advised that the Notice of Intents stated that there would be 10 square feet of land under water impact and was wondering where this came from. Mr. Schneider replied that is the square foot area of all the piles.

Chairman Radcliffe inquired as to how many boats is this going to be able to accommodate. Mr. Miller replied it may be up to 3.

Chairman Radcliffe stated that he has a concern with the current bulkhead being approximately 100 years old. Mr. Schneider replied that it's a granite block and not concrete or steel and there aren't any piles proposed to go near the bulkhead.

Agent Porter advised that there are comments from DMF and comments from an abutter. Chairman Radcliffe read aloud and entered into record, the letter from the abutter, from Fish Island Properties, LLC stating that they do not have any objection to the application of Bridge Real Estate Investors, LLC to construct a pile supported commercial pier at 12 Fish Island, New Bedford, MA.

Agent Porter advised that according to the correspondence received from the Division of Marine Fisheries they recommend that the time of year restriction on all in water work be from January 15 through June 30th to protect diadromous passage, migration and spawning habitat and the area where the pier is proposed is also mapped habitat for quahog but DMF did not propose any relocation of the quahogs. DMF also stated that "it has identified New Bedford Harbor as winter flounder spawning habit. Winter flounder enter the area and spawn from January through May, laying clumps of eggs directly on the substrate. These demersal eggs hatch approximately fifteen to twenty days later. The Atlantic States Marine Fisheries Commission has designated winter flounder spawning habitat as "Habitat Areas of Particular Concern". A recent stock assessment has determined that Southern New England/Mid Atlantic winter flounder populations are at only 16% of the recommended recovery level, and even though it is not currently experiencing overfishing, it is overfished. Because of the winter flounder stock status, every effort should be made to protect winter flounder and their spawning habitat. Additionally, the Acushnet River has been identified by the Marine Fishers as diadromous fish passage, migration and spawning habitat for alewife, blueback, rainbow smelt, and white perch. As a result of drastic declines in the alewife populations, Marine Fisheries has placed a ban on the harvest of river herring in the Commonwealth. Every measure should be taken to protect alewife spawning, nursery and migration habitat." A Time of Year restriction is recommended for all in water work from January 15th through June 30th to protect diadromous passage, migration and spawning habitat.

Chairman Radcliffe inquired as to what demolition method is being proposed. Mr. Schneider responded that it's a small concrete building on a slab. Chairman Radcliffe recommends that during demolition that there be a waddle placed between it and the resource area.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: that all wooden pilings be treated with wood preservatives and all coatings for steel be applied away from the site to avoid any runoff into the river, time of year to protect marine fishers for all in water work be

done from January 15th to June 30th and that straw waddles be placed along the river side of the bulkhead when the building is removed and the area is excavated for the off loading platform.

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

Commissioner Dixon made a motion to approve the Order of Conditions as recommended by the Agent with Special Conditions as read. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

4. **SE49-0715 - A Notice of Intent as filed by Richard Hopps of Petrel Properties, LLC for property identified as subdivision Lot 6 on Ava's Way (Map 138, Lot 497 – formerly Map 136, Lot 353).** Applicant proposes to construct a single family dwelling and associated utilities in the Buffer Zone to Bordering Vegetated Wetland. Representative is Richard Rheaume of Prime Engineering.

Mr. Richard Rheaume of Prime Engineering was present on behalf of the applicant. Mr. Rheaume advised that the detention basis has been sized to take the run-off from the lot and the roadway but not the roof so he has added the roof infiltrators to the plan. Those infiltrators can store and infiltrate a 100 year storm off the roof. Grading is being proposed outside the 25' no disturb zone and are also proposing a cellar drain underneath the slab for groundwater. The trench will be hand dug and the backhoe will be sitting outside of the no disturb zone. Mr. Rheaume stated that Agent Porter had expressed concern that they would be disturbing trees and shrubs. Mr. Rheaume visited the site today and found that there is a very small bush that if it is disturbed can be transplanted back. The last 10' there maybe one or two shrubs that may be disrupted but it can be restored once the work is done. If a cellar drain is installed there will be no need reason to have a sump pump in the basement. Mr. Rheaume is agreeable to having a condition state that no exposed sump is allowed in the basement.

Commissioner Audette inquired if this proposed work will have to be done to every lot. Mr. Rheaume replied that he believes so unless they have to be slab and graded.

Mr. Hugh Rowlett was also present and added that the only lot that can have a basement is lot #7 and all the other lots will just be slabs.

Agent Porter advised that she has reviewed the plan and had commented on the roof infiltrator with the 100 year storm which was part of the requirement of the original Order of Conditions and the calculations now support that. The other comment was with regard to the no disturb zone disturbance. Agent Porter inquired as to how deep they will have to dig to place pipe in. Mr. Rheaume replied that it will be 1'-2'. Agent Porter inquired as to how long it will take to do the proposed work. Mr. Rheaume replied that it will take approximately one day or less.

Commissioner Audette stated that the hay bales need to be fixed. Mr. Rheaume replied that he will have them fixed or replaced.

Commissioner Audette advised Mr. Rheaume that they need to be careful when they are cutting the trees and make sure they are not being dropped in the wetland.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: no exposed sump permitted in the basement, hay bales are needed in addition to silt fencing for erosion control, that best and least intrusive practices including hand removal will be employed for the excavation in the no disturb zone; removal of plants will be replaced or transplanted; trees are not to be laid into the no disturb zone, at completion of construction, a split rail fence is to be installed along the hay bale boundary to establish a no disturb zone, a sign shall be placed every 50' on the split rail fence stating, "A Protected Conservation Area Exists Beyond This Fence and Is to Remain Undisturbed per Order of New Bedford Conservation Commission", at the time of land transfer, the owner (or any successor) shall require the buyer to sign an acknowledgment that they have read and understand Condition #50 and a notarized original document shall be forwarded to the Commission. The Plan for approval is titled Proposed Building Permit Plan Lot 6 Ava's Way dated 8/18/15.

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 Pacheco. All in favor. Motion carries.

5. Notice of Intent as filed by the City of New Bedford Department of Public Infrastructure for property identified as 1484 Airport Road (Map 123, portion of Lot 3). Applicant proposes to construct a salt shed in the Buffer Zone to a Bordering Vegetated Wetland. Representative is City Engineer David Fredette, P.E. of the Department of Public Infrastructure.

Mr. David Fredette and Stephanie Dupras from the New Bedford DPI were present. Ms. Dupras stated that they are proposing a 60' x 100' salt shed that is 50' back from the roadway. There is a 10' buffer all the way around with a 30' wide driveway opening. The buffer is to catch all runoff possible off of the shed and there is a 2% pitch from the shed outward where there will be a berm and catch basins that will filter down to a bio-retention filtration system. There are three trees that would need to be removed in order to fit the structure. DPI will not be doing the construction they will just be prepping the site for the pad. The company that was awarded the money to build this will be the one constructing it. That company will create precast concrete blocks for the foundation wall and the structure is built on top of that and then there is a fabric covering that goes along the top.

Chairman Radcliffe inquired whether DPI is aware of the vast number of municipalities in the Northern plains that do not use salt for snow removal. Mr. Fredette replied that all the municipalities surrounding this area use salt. Chairman Radcliffe stated that he did some research and every time salt is used it's to the ultra detriment to the environment, when salt is applied to snow it impedes the ability of the snow to be broken up, which makes it harder for the plows to work and it damages the pavement. Chairman Radcliffe suggested that DPI take a look at what other cities do without using salt on their roads. Mr. Fredette stated that he can go back to DPI and suggest this but there is a lot more to it than meets the eye.

Commissioner Audette inquired as to how they keep the blocks stacked. Mr. Fredette responded that the blocks are cast in steel forms with an adhesive in between them. Ms. Dupras added she doesn't have the exact details because the company has a professional engineer that goes out and designs it specific and she will not receive the final stamped plan until they have visited the site and designed it. Agent Porter stated that this Commission would need the final PE stamped plan.

Agent Porter inquired as to how long before the final design is complete. Mr. Fredette replied that the company has been awarded the contract and DPI is trying to find a suitable site. Chairman Radcliffe also

suggested that if possible to have a company representative come before the Commission. Mr. Fredette replied that he can try to make that arrangement.

Agent Porter recommended submitting this matter to Nitsch Engineering for review along with the plan structure design.

Commissioner Dixon made a motion to submit to Nitsch Engineering for site review. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

Commissioner Dixon made a motion to continue this matter to September 8, 2015. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

NEW BUSINESS:

6. Agent Updates: Ratify Emergency Certification for the airport**.** Conservation Restriction – Haskell Farm

AIRPORT

Commissioner Dixon made a motion to ratify the Emergency Certification for the airport. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

CONSERVATION RESTRICTION-HASKELL FARM

Agent Porter advised that there were changes made to the Conservation Restriction a couple of months ago that were approved by this Commission. Said changes have finally been signed and it now needs to be signed by this Commission.

Commissioner Dixon made a motion to sign the Conservation Restriction for Haskell Farm. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

A-1 ASPHALT

Agent Porter advised that she received a telephone call from Rick Charon and they are working on locating the 50' line and are finding that a lot of the flags are in the woods and they will get in touch with this Commission when all the flags are in place.

7. General Correspondence

None.

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,

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Sandy Douglas
Administrative Specialist

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