



**Environmental Stewardship Department/  
Conservation Commission**

**City of New Bedford  
Jonathan F. Mitchell, Mayor**

**Meeting Minutes of the Conservation Meeting of  
December 4, 2018  
Brooklawn Senior Center**

**Members Absent**

**Staff Present**

**Agent Sarah Porter  
Sandy Douglas**

**CALL MEETING TO ORDER**

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

**ROLL CALL OF COMMISSIONERS**

Chairman Craig Dixon, Vice Chairman Dennis Audette, Chancery Perks, Paul Pacheco, and Peter Blanchard.

**NEW BUSINESS:**

1. **SE49-644** – Request for Certificate of Compliance as filed by the City of New Bedford DPI for property located at Wamsutta Street BTWN Acushent Avenue & North Front Street (map 72-2 South Side & Map 78 North Side). Representative is Shawn Syde of City of New Bedford DPI.

Agent Porter advised that this is a request for a Certificate of Compliance for a simple project, and everything is in compliance and recommended the issuance of a complete Certificate of Compliance with no ongoing conditions.

Commissioner Audette made a motion to issue a full Certificate of Compliance as recommended by the Agent. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

**OLD BUSINESS:**

1. **SE49-0794** – (Continued from 10/2/18, 10/16/18, 11/6/18, 11/20/18) - Request for a Certificate of Compliance as filed by DPM Development Corp., for property located at Seth Daniel Drive (Map 136, Lot 482). Representative is Jeffrey Tallman of SITEC. **CONTINUED**

## **CONTINUED HEARINGS:**

1. **SE49-0735** – (Continued from 3/15/16, 4/5/16, 4/19/16, 5/3/16, 5/17/16, 6/7/16, 6/21/16, 7/5/16, 7/19/16, 8/16/16, 9/6/16, 9/20/16, 10/6/16, 10/18/16, 11/1/16, 11/15/16, 12/20/16, 12/27/16, 1/17/17, 2/7/17, 2/21/17, 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17, 7/18/17, 8/8/17, 8/22/17, 9/5/17, 9/19/17, 10/3/17, 10/17/17, 11/7/17, 11/21/17, 12/5/17, 12/19/17, 1/2/18, 1/16/18, 2/6/18, 2/20/18, 3/6/18, 3/20/18, 4/3/18, 4/17/18, 5/1/18, 5/15/18, 6/5/18, 6/19/18, 7/3/18, 7/17/18, 8/7/18, 8/21/18, 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 1/20/18) - **A Notice of Intent as filed by Anthony R. DeCosta d/b/a A-1 Asphalt for property located at 1861 Shawmut Avenue, New Bedford (Map 124, Lot 27).** Applicant proposes improvements to a soil and aggregate re-cycling facility in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Rick Charon of Charon Associates, Inc. **CONTINUED**
2. **SE49-0810** – (Continued from 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 11/20/18) - **A Notice of Intent as filed by Norman Nichols for property identified as a 50’ wide easement through Map 130A, Lot 720.** Applicant proposes a stream crossing for a 20’ wide paved drive which shall alter Bordering Vegetated Wetland, Bank and Land Under a Waterway. Representative is Richard Rheume of Prime Engineering. **CONTINUED**
3. **SE49-0811** – (Continued from 10/16/18, 11/6/18, 11/20/18) - **A Notice of Intent as filed by David Rosonina for property identified as 3806 Acushnet Avenue (Map 135, Lots 298 & 350), New Bedford.** Applicant proposes to restore 4,841 square feet /of Bordering Vegetated Wetland, stabilize the 25’ Setback with a conservation seed mix, and conduct minor landscaping in the 100’ Buffer Zone. Representative is Stephen Chmiel.

Mr. Stephen Chmiel was present on behalf of the applicant and stated that at the last meeting the MA DEP file number had not yet been received and the Commission had requested changes to the monitoring plan. Mr. Chmiel stated that the following changes have been made: revised item #2 that the Conservation Commission Agent has the opportunity to review all the installed erosion controls before any earth disturbance activities begin on site, Item #12 end of growing season monitoring reports will be submitted and added a third monitoring season until the year 2021; an additional report was added to the cost estimate; the wetland planting trees were modified from 10’ on center to 20’ on center and work will commence April 15, 2019 or sooner depending on weather and will be completed by May 15, 2019 and deviation from that would require further authorization from the Conservation Commission.

Commissioner Audette inquired if Mr. Rosonina knows he can’t conduct any work. Mr. Chmiel responded that he did meet with him and showed him the plan and the extent of the buffer zone and explained to him the sensitivity of the project and what he has done and how he needs to proceed. He also informed him that any work within the lawn he would need to speak with Mr. Chmiel first and then he will confer with Sarah. Mr. Rosonina seems to understand that anything that disturbs the ground that involves dirt he would need to advise Mr. Chmiel first and he indicated that the winter is coming, and he will not be doing any work out there.

Agent Porter recommended approving the restoration plan dated 9/19/2018 and the restoration narrative revised dated 10/29/18, Estimate of expenses and timeline dated 10/29/18. Agent Porter recommended the following Special Conditions: failure to complete work as shown on the wetland restoration plan as described in the wetland restoration plan narrative and in accordance with the estimate of restoration expenses and construction timeline may result in an Enforcement action.

Commissioner Pacheco made a motion to approve an Order of Conditions with special conditions as read by the Agent. Motion was seconded by Commissioner Audette.

## **NEW HEARINGS:**

- 1. A Notice of Intent as filed by North Wharf Realty Trust for property identified as 2 Washburn Street (Map 86, Lot 3).** Applicant proposes maintenance of the existing solid fill pier, improvements to the existing stone revetment and installation of spud piles for a barge. Representative is Susan Nilson of Foth Infrastructure & Environment, LLC.

Ms. Susan Nilson of Foth Infrastructure and Environment was present and advised that this project is at Kyler's Seafood on Washburn Street and it may appear that a portion of this project been completed because the barge is in place, but it was authorized as a temporary structure by the Harbor Commission. The spud piles are steel pipe piles dropped in place to the bottom in the barge that serve as an anchor system. The barge is there but are looking for permission for other site improvements including rebuilding the stone revetment and replacing it with stone. Mr. Packard, the owner, wants to clean up the bank to prevent erosion and to get rid of trash. Also proposing improvement to existing solid filled wharf looking to put crushed stone and provide safe walking surface with curb around the edge so that public could use that area. Brian Joseph at DMF did not have any concerns. EPA did do dredging here so that the depths are likely deeper than shown. Ms. Nilson added that there is a small area of saltmarsh and DMF commented on that and expects a special condition will be placed that they cannot work in saltmarsh area and there is no intent of working in there.

Commissioner Audette inquired if this meets Chapter 91? Ms. Nilson stated that they are authorized by annual permit from harbor master, but Mr. Packard would like to apply for a Chapter 91 license, so he doesn't have to apply for it every year and plan on pursuing that permit once get approval from con com for banks and barge.

Agent Porter what are the chains in the front of the barge. Ms. Nilson replied that those anchor chains are designed for spud piles. Agent Porter added that when she looked at it yesterday it appeared that it was grounded don't know how to determine if it's sitting on the ground. Ms. Nilson can't say for certain if it is or not. Agent Porter stated that something needs to be on the plan as to how to protect the little piece of saltmarsh. Ms. Nilson stated that she doesn't know what would hold it up with the tide but in past project, they have used fence posts driven in as dredge markers but doesn't know if that will prevent any sediment. But she can stake the limit landward of the saltmarsh because it's above mean highwater mark.

Ms. Nilson suggested they use construction stakes installed 5' back from the boundary of work and no work can occur except for picking up manmade materials. Agent Porter agreed.

Agent Porter stated that DMF had commented on the navy anchors. Ms. Nilson replied that they are chains which are typical way to anchor and doesn't know if DMF was recommending anything.

Agent Porter asked that she respond to DMF comments and she agreed to do so. Agent Porter added that because they have permit from Harbor Development Commission that does not exclude them from coming before the Conservation Commission for anchors and spud piles. Ms. Nilson suggested Agent Porter consult with The Harbormaster, because she is not familiar with the jurisdiction.

Agent Porter inquired if all the slope work will be conducted from shore? Ms. Nilson replied that it would be.

Agent Porter recommended a special condition, to use construction stakes 5' above edge of the marsh but hearing cannot be closed this evening because a DEP file # has not been issued.

Commissioner Audette made a motion to table to December 18, 2018. Motion was seconded by Commissioner Perks. All in favor. Motion carries.

2. **A Notice of Intent as filed by the City of New Bedford Department of Environmental Stewardship for property identified as Potter St. (Map 81, Lot 126).** Applicant proposes to remove approximately ½ cubic yard of soils/sediment in and adjacent to an intermittent stream as a component of site remediation that is required to achieve site closure under the Massachusetts Contingency Plan. Representative is Scott Heim of TRC.

Mr. Scott Heim of TRC was present on behalf of the City of New Bedford Dept. of Environmental Stewardship. Mr. Heim advised that samples were conducted by EPA in 2010 and one hot spot that had elevated levels of PH's that causes a human health risk was discovered. TRC delineated the wetlands this year. They are proposing to remove the hot spot area. They did confirmation sampling this summer 2' away from the hot spot and 5' in one direction. The area they want to excavate is 28 s.f. Proposing to excavate it down 6". Potter Street will be the staging area and they will place plastic film down with two 55-gallon drums to place the sediment in. They will go in with hand loppers to clip vegetation to get access to this point, excavate area by hand with a shovel, load it into wheelbarrow to staging area and load into the drums and have those drums taken away and disposed of in a legal location. Looking to do this during dry conditions. Prior to doing the excavation, they are proposing encircling the area with straw wattles to make sure no sediment leaves that area and once complete they will bring in clean loam material and then apply wetland seed mix to that area.

Commissioner Audette inquired as to how long this project would take. Mr. Heim replied that it should be done in a few hours.

Agent Porter requested jute mesh be added after wetland seed mix in case of a rain storm. Mr. Heim requested they hydroseed mix so that it binds the soil. Agent Porter agreed that would be acceptable.

Commissioner Audette inquired whether there were any airborne health concerns and since it's a health issue, is there going to be decontamination site while excavating. Mr. Heim replied that there aren't any airborne concerns and that it's not a muddy type of environment and doesn't expect them to get mud and material on them, but they will be wearing Tyvek suits and gloves.

Commissioner Blanchard inquired whether there is any other area on site that was contaminated? Mr. Heim replied that there wasn't any other area detected.

Agent Porter recommended the following Special conditions, that work be done during dry season while stream is not flowing, all material excavated by hand and trucked to the staging area in a wheelbarrow and after excavation occurs it is to be immediately loamed and seeded with wetland seed mix, tamped down and stabilized with jute mesh or the equivalent, Conservation Agent to inspect the erosion controls prior to work commencing.

Commissioner Audette made a motion to table this matter to December 18, 2018. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

## **NEW BUSINESS CONTINUED:**

## **1. Agent Updates/General Correspondence**

### **BARTLETT STREET**

Agent Porter advised that she received a letter today from LEC regarding Bartlett Street, Mr. Norman Nichols' property. LEC was hired by the abutter to Mr. Nichol's property to review the NOI. LEC had comments and she forwarded it to Prime Engineering. Agent Porter inquired whether the Commission wants Prime Engineering to address these comments or does commission want to consider these comments during hearing process. Chairman Dixon suggested that Prime Engineering should address these comments.

Commissioner Blanchard inquired as to what happens from here. Agent Porter replied that we don't generally have abutters that hire a consultant so the applicant's consultant, Prime Engineering, will respond and the Commission will have to decide.

### **RIVER'S END PARK**

Agent Porter advised that she wrote a letter for Mary Rapoza about the funding for Phase II of River's End Park and why they don't have to come before the Commission.

### **SASSAQUIN POND**

Agent Porter sent a letter to the CPA for the jellyfish at Sassaquin Pond.

## **ADJOURN**

Commissioner Audette made a motion to adjourn at approximately 7:15. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Respectfully submitted,

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Sandy Douglas, Administrative Coordinator