



City of New Bedford

DEPARTMENT OF LABOR RELATIONS & PERSONNEL

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Human Resources

CONFIDENTIAL

(Investigation opened 12/10/18)

INVESTIGATIVE REPORT

I. Introduction

This report provides a summary of the results of the investigation regarding the removal of timber that in June 2009 was stored at the New Bedford Water Treatment Plant (Quittacas) to be donated to the Schooner Ernestina to support its restoration.

II. Summary of Investigation

On December 10, 2018 I was assigned to investigate this case. The investigation required the City to complete an exhaustive search for e-mails relative to this subject based on specific search words. Interviews started immediately upon assignment and as e-mails were received and reviewed, it resulted in my having to contact certain individuals multiple times to ask questions and receive clarification. There are specific e-mails found that are cited in this report. Numerous individuals from the Department of Public Infrastructure Schooner Ernestina-Morrissey Association, Inc. (SEMA, Inc.), Schooner Ernestina Commission, Department of Conservation and Recreation (DCR) and other individuals essential to the investigation were interviewed. I also requested assistance from the New Bedford Police Department to assist in interviews.

At the request of the Mayor, I have disclosed this report, e-mails generated in the search of the city's servers and the other documents listed herein to the Bristol County District Attorney's Office.

A. Persons Interviewed

- a. Charles Kennedy, former Assistant Superintendent of Water

- b. Euzebio Arruda, former Commissioner of Department of Public Infrastructure
- c. Ronald Labelle, former Commissioner of Department of Public Infrastructure
- d. Nathan Adams, Owner of Cataumet Sawmill, E. Falmouth, MA
- e. Shawn Davis, Resident of Freetown
- f. David Texeira, former Lead Treatment Plant Operator
- g. Robert Giard, former Head Treatment Plant Operator
- h. Licy Dos Santos, former Chairperson Schooner Ernestina Commission
- i. Michael Dyer, New Bedford Whaling Museum
- j. Daniel Menard, Acushnet Department of Public Works
- k. Irene Schall, former City Solicitor
- l. Fred Sterner, board member and former Chairperson of Schooner Ernestina Comm.
- m. Mark White, President of D.W. White Construction
- n. Julius Britto, President of SEMA, Inc.
- o. Frank Hartig, Assistant General Counsel of Department of Conservation and Recreation (DCR)
- p. Mary Anne McQuillan, Secretary of SEMA, Inc.
- q. Christina Connelly, Chief Operating Officer, City of New Bedford
- r. Harold Burnham, shipwright and consultant to DCR for the Ernestina Restoration Project

B. Documents Reviewed

- a. A search of the City's e-mail server was conducted going back to 2009 to the present using specific search terms. This search yielded over one million e-mails from which relative e-mails were called. The e-mails cited in this report are attached.
- b. A list of search terms. Search terms were as follows: Ernestina, Fairhaven Mills, wood, timber, lumber, pine, beams, Davis, Adams and Menard.
- c. Letter dated September 29, 2010 to Mayor Scott Lang from Mark Dickinson
- d. Letter dated September 30, 2010 to Attorney Irene Schall attaching above letter dated September 29, 2010 to Mayor Scott Lang
- e. February 24, 2017 Schooner Ernestina Commission (SEC) Meeting Notice
- f. Minutes of SEC meeting of February 24, 2017
- g. Report from Detective Shawn Robert received December 24, 2018
- h. Report from Detective Shawn Robert received December 28, 2018 with attached photos

III. Summary of Findings

The investigation goes back to 2009, when the Fairhaven Mills building was razed to make room for Market Basket supermarket and some satellite shops around it. At that time, then Mayor Scott Lang and Dickinson Development Corporation agreed to set aside some southern yellow pine to donate toward the restoration of the Ernestina. In

2009, the wood was taken and stored at the Water Department (Quittacas) located at 1 Negus Way, E. Freetown.

There was no formal written agreement addressing the Fairhaven Mills southern yellow pine timbers and their intended use but it is clear that these wood beams were donated in 2009 toward the reconstruction of the Ernestina. Paul Brawley from DCR sent an e-mail to Matt Morrissey, who was then the Executive Director of the New Bedford Economic Development Commission and Mayor Scott Lang on March 9, 2009, asking if it would be possible to salvage the huge beams from the Fairhaven Mills for the Ernestina. Mr. Morrissey responded that this is a great idea. There is also a press release dated April 14, 2009 titled "Wooden Beams from City Mill to Use in Restoration of Historic Schooner Ernestina". In letter dated September 29, 2010 signed by Mark Dickinson, from Dickinson Development Corporation, sent to then Mayor Scott Lang he states ... "In addition, wood beams salvaged from the mill were donated to the reconstruction of the schooner "Ernestina" in support of the City's maritime heritage". Mr. White, President of D.W. White Construction stated that his understanding is that the timbers were clearly earmarked for the Ernestina when his company brought them to Quittacas in 2009. Ronald Labelle, the Commissioner of the Department of Public Infrastructure (DPI) at the time, stated that in 2009 when he was asked by the Mayor's office to find a space to store the timbers he understood they were being stored for future restorations to the Ernestina. Employees employed in 2009, who were interviewed during this investigation, all agreed that at the time the timbers were originally stored at Quittacas, they were to be used for the Ernestina and members of the Ernestina Commission and SEMA, Inc. were aware of the timbers being stored at Quittacas for future use to the Ernestina.

In 2009, half of the timbers were originally stored in a low lift garage at Quittacas and the other half were in a parking lot behind the treatment plant and covered with a tarp. This is confirmed in an e-mail dated August 14, 2013 from SEMA, Inc. that mentions that Leon Poindexter, shipwright and Fred Sterner, former chairperson of Schooner Ernestina Commission, looked at the wood in 2011 and some of it was stored inside and some outside.

Mr. Sterner does not recollect having a conversation about the condition of the wood with any City employee during his 2011 visit. Mr. Britto from SEMA, Inc. states that Mr. Poindexter must have felt the wood had some value as he was the person who relayed information about the wood to Mr. Burnham. Mr. Burnham is a shipwright and DCR consultant on the Ernestina restoration project. As a result, Mr. Burnham took the time to look at the wood in 2015. After the 2011 visit, employees at Quittacas began to believe that the Ernestina was not interested in this wood. This occurred due to a communication that Robert Giard, former Head Treatment Plant Operator overheard between Mr. Poindexter and Mr. Sterner during this visit. Mr. Giard stated that it was said that "the wood was garbage, no saw mill would use it because of all the nails and steel in it." Mr. Kennedy stated that Mr. Giard told him that he overheard the

gentlemen say that "the wood would have no value to the Ernestina because of the amount of steel it contained". A sawmill would have to extract the metal from the wood before it could be milled and without a metal detector or ability to X-Ray the wood, it would damage their saws. At that time Mr. Kennedy did not mention this conversation to Mr. Labelle in the e-mail he sent to him with copies to James Ricci, Superintendent of Water and Zeb Arruda, Deputy Commissioner of DPI on July 6, 2011 when he notified Mr. Labelle of Leon Poindexter's visit.

There was no further communication regarding this wood until August 14, 2013. At this time Ronald Labelle would have been aware that there was still interest in the wood for the Ernestina. This is based on an e-mail dated August 14, 2013 from SEMA, Inc. to Neil Mello, Mayor's Chief of Staff, which was forwarded to Mr. Labelle asking to confirm the storage of the lumber from the Fairhaven Mills and asking who the Ernestina representative should contact for access to the lumber. Mr. Labelle answered on August 16, 2013 "Yes, stored in a building at our Quittacas Treatment Facility". No other Department of Public Infrastructure (DPI) employees were copied on this e-mail.

No additional actions were taken until 2015. According to Mr. Kennedy and Mr. Labelle, the wood was moved by DPI employees sometime in 2015. The wood was removed from the garage and parking lot area and was stacked uncovered on the edge of a gravel road away from the Treatment Plant where the public had walking access. The directive to move the wood came from Mr. Labelle and the decision where to relocate it was made primarily by Mr. Kennedy in communication with the foreman assigned to this task. There was no clear reason on why the wood was moved except for the fact that it was taking up a lot of space in the garage to a point where it was affecting department operations due to not being able to store heavy equipment into the garage. As a result of the move the wood became visible to the public. The move indicated to Mr. Kennedy that the wood was no longer being stored to be used for restorations to the Ernestina but there was no communication with Mr. Labelle to validate Mr. Kennedy's conclusion.

On January 20, 2015, Mr. Kennedy asks Mr. Arruda if it would be okay for him to coordinate a request made from Michael Dyer, from the New Bedford Whaling Museum, about taking one of the beams for a museum exhibit. Mr. Arruda answers "please". After I spoke with Mr. Dyer it was confirmed that he did not end up taking any of the wood. He stated "they decided not to take any of this wood because the wood was outside and his recollection is that it had problems – it was rotted and loaded with nails". He said "they ended up getting fir timbers from a facility in Lakeville".

On December 14, 2015, Mr. Kennedy sends Mr. Arruda an e-mail informing him that "Dan Menard, the boss at Acushnet DPW, is interested in getting some of the southern yellow timbers we want to get rid of at Quittacas. He wants to use them on some structure owned by the DPW. Is it okay for him to take what he wants"? Mr. Arruda replies to have him contact him. After I spoke to Mr. Menard he confirmed he "never ended up with any of the wood". He doesn't remember if "Zeb Arruda spoke to

someone and was told they couldn't have it or if it was because it was really big and they would have required a lot of machinery to remove it but he did not receive any".

These e-mails show that both Mr. Kennedy and Mr. Arruda were actively responding to inquires from individuals interested in obtaining the wood which indicates that at this time both believed that the wood was no longer being used for the Ernestina restorations. These communications were not brought to Mr. Labelle's attention but Mr. Arruda stated that "as Commissioner he would have made the final decision on these requests if they reached a level to bring to his consideration".

Mr. Shawn Davis, a resident of Freetown, made an inquiry on August 3, 2015 to Mr. Labelle relative to the timber and cobblestones located at Quittacas. On September 3, 2015 Mr. Labelle responds back to Mr. Davis in an e-mail and explains that these items have "a use and purpose for a project still in the planning stages". He also tells Mr. Davis that "these materials are required to go through a bidding process to comply with M.G.L." Mr. Labelle was correct that items owned by the City must comply with procurement procedures. The wood in question was not owned by the City but the cobblestones were. Although the wood wasn't subject to the surplus property rules nevertheless, the City had not obtained the authority from the Ernestina to dispose of them. Mr. Davis then proceeds to e-mail Mr. Labelle three more times on September 3, October 1 and November 19, 2015 with additional questions. On November 19, 2015 Mr. Labelle responds to Mr. Davis and states, "Mr. Davis, again you misunderstand these materials are not available to the public". The conversation was between Mr. Labelle and Mr. Davis; no other DPI employees were involved. This shows that Mr. Labelle was denying any outside requests to take the wood.

On December 4, 2015, it was evident that the Ernestina was still interested in the wood from an e-mail Mr. Labelle responded to in which he was asked by Christina Connelly from the Mayor's Office to reach out to Mary Anne from SEMA, Inc. to arrange for Mr. Burnham to visit the yellow pine at Quittacas. On December 4, 2015 Mr. Labelle asks Donna Amado from DPI to schedule this visit. The e-mail was copied to three DPI employees: Zeb Arruda, Donna Amado and Molly Gilfeather.

The employees who worked at Quittacas and were interviewed during this investigation stated that they were told to let people in to see the wood but would not be given any information on who the people were. David Texeira from Quittacas stated that he was told by someone in the DPI administration office that two gentleman would be coming by to look at the wood. Mr. Burnham and Fred Sterner went to Quittacas on December 10, 2015 and had pictures taken of the wood on that day. In my interview with Mr. Burnham he stated that when he went to look at the wood at Quittacas "he saw that it did contain a lot of bolts, nails and rods and that all of this iron would have to be removed. He said it is risky to work with this kind of wood because you don't know what is inside of it but he did tell DCR that it was usable wood".

He said it would be very "labor intensive and had no idea how much it would cost to clean and mill the wood and the wood would have to be trucked to the mill that would be able to work on it". The hope would be that "the cost would be equal to buying brand new wood and in addition would have the connection to the City". He said it would take someone who specialized in this work to determine the value as it is a difficult process, it is not his specialty. He said for the Ernestina deck they were "looking for 3' x 5' quality decking that would have to be perfect". Mr. Burnham was given a business card by Mr. Sterner with the name of a DPI contact person for him to give to his procurement officer. Mr. Burnham or Mr. Sterner do not remember the name of the employee on the card. Employees of Quittacas directed all inquiries to the DPI administration office.

In April 2016 Mr. Teixeira showed an individual the wood. He did not know who the person was. An e-mail dated January 13, 2017 shows this individual to be David Short, project manager for the Ernestina hull reconstruction.

Sometime in 2016, according to Mr. Arruda he was tasked by Mr. Labelle to call sawmills to try and get rid of the wood. Mr. Labelle had no recollection of this. Mr. Arruda made a call to Delano Sawmill in North Dartmouth, MA. and a few other sawmills that he could not remember the names of to inquire if they would be interested in the wood. Mr. Arruda informed Mr. Kennedy that "no saw mill was interested in the wood due to the amount of steel it contained; the wood would have to be X-rayed and would damage their expensive saws". Mr. Arruda said he informed Mr. Labelle that no one wants the wood.

In August 2016 Shawn Davis flagged down Mr. Kennedy to inquire about the wood. This was the first interaction Mr. Kennedy had with Mr. Davis, who was referred by Mr. Kennedy to the DPI administration office. On August 29, 2016 there is an e-mail from Erica Trahan, an Account Clerk at DPI to Mr. Arruda and Mr. Kennedy. The e-mail stated that she received a call from Mr. Davis and he was interested in purchasing the two piles of timber at the Water Works. She was asking Mr. Arruda how to handle the inquiry. Mr. Arruda responded that "he would speak to Mr. Kennedy".

On September 8, 2016, Jeanne Safioleas, Administrative Specialist at DPI sent Charles Kennedy an e-mail asking him if he could call Shawn Davis about his interest in the timbers. Mr. Kennedy responded that he would. Mr. Arruda stated that Ms. Safioleas normally referred his e-mails to the appropriate personnel upon receipt.

On September 15, 2016, Mr. Kennedy sent an e-mail to Mr. Arruda which included an e-mail from Shawn Davis with a quote on how much it would cost him to remove the wood. Mr. Kennedy states to Mr. Arruda that the wood has been at the Water Treatment Plant for 4 or 5 years. He states to Mr. Arruda that "...initially the group restoring the Ernestina had an interest but that fell through due to the excessive amount of nails and bolts in the wood. There has been no other interest to my

knowledge....” He then explains that Mr. Davis hopes to get them for the amount it will cost him to remove them from the grounds to build his house.

Mr. Arruda responds to Mr. Kennedy’s e-mail on same day and states “Make it happen Mr. Kennedy”. Mr. Arruda did not reach out to anyone to confirm that the Ernestina did not want the property prior to making this decision. In his interview with me he explained his understanding at this time was that “the wood was no good, no one wanted it, the wood was becoming an operational hazard, it was in a fire lane in a place where kids who rode dirt bikes could get hurt and it was not a major issue on his radar with all the other work going on in the department”.

After this date there are e-mails between Mr. Kennedy and Mr. Davis regarding scheduling dates to have the timber removed and frustration finding companies to haul the wood, along with a correspondence regarding a damaged hydrant that Mr. Davis paid to replace. Mr. Kennedy states that two companies came to remove all the wood and that it took a few months before the wood was removed. The wood was moved in the latter months of 2016. At no time during this period did Mr. Davis mention to Mr. Kennedy that he had previously inquired about this wood with Mr. Labelle and was told that the wood was not available to the public.

On December 29, 2016 Mr. Davis informs Mr. Kennedy that he sent a payment out for the hydrant and Mr. Kennedy thanks him and wishes him well on building his home. Mr. Davis responds that “he is currently having some setbacks with buying the land on the lake”.

On January 10, 2017 Diane Roy, Principal Clerk in the Mayor’s Office receives a call from Maryann McQuillian from SEMA, Inc. After this call she sent an e-mail to Christina Connelly notifying her that Maryann McQuillian “wanted to speak to you regarding the timbers that were from Fairhaven Mills that were supposed to be used for the Ernestina restoration ... she was told they were stored at the Waterworks... when she had inquired about it, she was told that the timbers were gone!!! Would like to speak to you regarding this matter.” On same day Christina Connelly forwards an e-mail to Mr. Arruda, asking if he knows anything about the wood and Mr. Arruda responds that “the timbers were stockpiled for years at Quittacas. They were disposed of last year.”

Ms. Connelly then directs Mr. Arruda to “attempt to figure this out”. On January 10, 2017, Mr. Kennedy e-mailed Mr. Davis and informs him that he has just been told by his boss that the Ernestina reconstruction crew is now looking for some of this wood and asked “if Mr. Davis would be willing to release some back”. Mr. Davis “responds that due to the land deal falling through he got rid of the wood”. He provides Mr. Kennedy with the name of the Cataumet Sawmill located in E. Falmouth, MA. He does not mention any other sawmill.

On January 13, 2017, Frank Moniz, the Safety Officer in DPI during this time, informs Christina Connelly that he has spoken to Mr. Graves from the Ernestina project and Mr. Adams from Cataumet Sawmill and is going to have them speak to each other to see if they could work something out.

On January 13, 2017, Wendy Pearl from DCR thanks Mary Ann from SEMA, Inc. for her work on this issue and states ..."the shipyard was not relying on this source of material and its loss will not affect the contract..."

On January 17, 2017 Mary Ann from SEMA, Inc. informs Christina Connelly that "the wood at Cataumet Lumber is not suitable in quantity or condition to be used for the deck of the Ernestina".

On January 19, 2017 Mr. Arruda explains to Christina Connelly that Mr. Adams from Cataumet Lumber mentioned that he had "sold some of the wood to a customer down south and would not elaborate any further". Mr. Arruda added that "we gave both parties each other's information and hoped they would be able to work it out". This information was not correct because Cataumet did not have all the wood nor did they sell it to another sawmill. The City's efforts stopped at this point because they could not take the inquiry beyond Cataumet Lumber. Christina Connelly apologizes to Mary Ann and informs her that she will have an employee from DPI attend the Schooner Ernestina Commission meeting to explain to the Commission what happened.

On February 24, 2017 during the Public Meeting of the Schooner Ernestina Commission (SEC) the topic of the wood's availability was listed on the agenda. Mr. Arruda sent Charles Kennedy and Frank Moniz to this meeting. Mr. Kennedy reported back to Mr. Arruda "that the people he spoke to at the meeting did not seem happy". No further action was taken after this meeting.

During the investigation in speaking with Licy Do Canto on December 17, 2018, who became the Chairperson of the Ernestina Commission after the February 2017 meeting, he stated "that they have the quality of wood needed for their project. In addition, if the wood that had been stored at Quittacas was being offered to them they would not accept it and would not be in a position to make a decision on what to do with it. He said they would have left that decision to the City".

In my communication with Nathan Adams from Cataumet Sawmill on December 13, 2018 he informed me that in 2016, Mr. Shawn Davis called to tell them that there was a bunch of timber in the woods in Freetown available for sale. He said his understanding is that "a company from Louisiana came in first and took the best pieces and then they came in second and got the leftovers". He did not know the name of the company in Louisiana. He explained to me that "in the lumber world it is very common to have an organizer of a sale and one company gets to go in first and picks the best pieces and a second company comes in for the remainder". He said he has records of 2 checks made

out to Shawn Davis. One dated 11/19/16 in the amount of \$2,500 and the other 12/5/16 in the amount of \$3,000.

On December 19, 2018, it became clear during the investigation that Mr. Davis was not forthcoming with his initial request in 2015, would not provide answers when asked about the name of the other sawmill and whether he received payment from them and when the land sale fell through. I contacted Police Chief Joseph Cordeiro for assistance. On same day he assigned Detective Shawn Robert to assist.

The December 24, 2018 report from Detective Robert states that Mr. Davis said that when the land deal fell through he no longer needed the timbers so he made a decision to sell them. It was determined that the first company took the majority of the timber which consisted of the higher quality pieces and he was paid \$13,000. Detective Robert was able to locate and contact the owner of Lees Millwork and Old Salvage Company in Winona, Mississippi who paid Mr. Davis for the timbers. After further inquiry Detective Robert was able to track the wood to Brian Austin who stated that the majority of the timbers are located at his property, the Oxford Farm and Ranch in Oxford, Mississippi.

Mr. Austin stated he that he still has the majority of the wood that he bought from Lee Cloninger, the owner of the Old Salvage Company, but some of the wood had been sold to a contractor to use for flooring.

On December 28, 2018 Detective Robert spoke to the Lafayette County Sheriff and Investigator Micah from the Sheriff Office took six pictures of wood at Oxford Farms. The appearance of the wood in one of the pictures looks to be the southern yellow pine in color and size that was stored at Quittacas. January 2, 2019 Detective Robert spoke to Mr. Brian Austin to confirm. Mr. Austin stated that he would be willing to provide us a picture of the wood he bought and would sell the remaining wood back to the City at the cost he paid per foot. He said he would send us a picture and invoice.

As of January 17, 2019 the City has not received the requested picture and invoice from Mr. Austin. A letter from the City Solicitor has been sent to Mr. Austin informing him that the wood belongs to the Schooner Ernestina-Morrissey who could seek to retrieve the wood and therefore request that he take precautions to maintain the wood in good condition.

VI. Conclusion

Throughout the relevant period, the Department of Public Infrastructure had a managers meeting at which questions concerning the Fairhaven Mills wood could have been raised. It is clear that Mr. Labelle, Mr. Arruda or Mr. Kennedy did not use these meetings as an opportunity to discuss issues concerning the wood, at least not with

adequate clarity. Both Mr. Labelle and Mr. Arruda state the wood was not a major issue on their radar with all the other work taking place in their department.

Non-existent communication and lack of documentation between the DPI supervisors, namely: Ronald Labelle, Euzebio Arruda and Charles Kennedy, pertaining to the wood are evident, and it directly led to the 2016 decision to release the wood to Mr. Davis. It is clear that the wood was still at Quittacas prior to Mr. Labelle retiring on June 30, 2016 and Mr. Labelle was not approving outside requests for the wood. His retirement not only led to Mr. Davis inquiring again about the wood but left the decision to Mr. Arruda. Mr. Arruda, along with Mr. Kennedy was under the false impression that the Ernestina was no longer interested in the wood. On September 15, 2016 when Mr. Kennedy e-mails Mr. Arruda with Mr. Davis's request Mr. Arruda made the decision to approve the request without seeking confirmation that the wood was no longer needed for the Ernestina reconstruction or asking any questions on whether he had the authority to give the wood away.

The lack of asking questions or having a simple documentation system regarding the history of the wood being stored led to the release of the wood.

Despite that it is unclear if the Ernestina would still want or need the wood at this point; nonetheless the City did not have the right to release it.

Throughout the investigation there was no evidence to support that any City employee received any money or anything that would amount to a personal gain in exchange of the timbers that Mr. Davis received.

VII. Recommendations

- The City needs to take an inventory of any property being stored and speak with the City Solicitor regarding storing of property and liability.
- The City needs to work with the City Solicitor to create policies addressing whether and under what circumstances property of others may be stored.
- The City needs to provide departmental training on policies and procedures around property storage and disposition of property.
- The City needs to have Department Heads sign off that their current employees are trained on these procedures and create a system where future department heads and employees are trained on these policies and procedures.

VII. Interviews

a). Charles Kennedy, former Assistant Superintendent of Water, retired employee

Mr. Kennedy came to my office on December 10, 2018 because he had been reading the articles that referenced the wood that had been stored at the Water Department and wanted to supply e-mails and communication on his knowledge regarding this matter. He originally went to the Mayor's Office and was told to come and speak to me.

I explained to Mr. Kennedy that I had just been assigned this investigation and was willing to speak to him now since he was in my office but may need to call him with follow-up questions as the investigation proceeds. He stated he understood. Mr. Kennedy presented me with e-mails and the following information regarding this matter:

- He stated that sometime in 2009, a group of DPI employees assigned from the Commissioner's Office brought over wood timbers to be stored at the Water Department. He said that half of the load was stored in a low lift garage area that took up about half of the garage space and the other half was stored in the south parking lot behind the treatment plant and was covered with a tarp. He said it was the understanding of the water department employees at this time that the wood was being stored to be used on the Ernestina in the future.
- He then said that sometime, he believes around 2010, he knows for sure once but it could have been a few other times, but he personally only remembers the one time that some people came to evaluate the wood. He assumed that they were people from the Ernestina or the State but doesn't know for sure. He said he really didn't pay attention. He said that one of his employees, Robert Girard, at the time of the visit, stated to him that he overheard one of the individuals' state that the wood had no value to the Ernestina because of the amount of steel it contained. He said the wood did contain a lot of nails and bolts.
- Mr. Kennedy said that the wood stayed stored in these areas until 2015 and that even though no one said anything official to him the general consensus at the Water Treatment Plant was that the wood had no value to the Ernestina.
- He said sometime in 2015 a group of employees from DPI came to the Water Department and took the wood from the garage and the parking lot and placed it on a gravel road that was located about 200 to 300 yards away from the grounds. Mr. Kennedy did state that the wood was taking up a lot of space in the garage to a point where they couldn't store some of their heavy equipment. He said the wood was just stacked with no tarp covering it. He doesn't know what initiated the relocation of the wood but did say that to him this was an indicator that the wood was no longer being stored to be used toward Ernestina restorations.

- He then said that in 2016, he doesn't remember the date but he knows it is before Commissioner Labelle retired in June of 2016 that Mr. Labelle had assigned Deputy Commissioner Arruda to attempt to market the wood to other sawmills. He said in a conversation he had with Mr. Arruda, who he knows spoke to Delano Saw Mill and he believes a few others, that they all said the wood wasn't worth the price to remove it because the wood itself had too much steel in it and would damage their saws.
- He then said in the spring of 2016 David Teixeira took someone from DCR over to look at the wood and told them that if they had interest in the wood they would have to speak to someone in the main office on Shawmut Avenue about this. This person was taking pictures of the wood. He never heard anything else regarding this.
- Then a few days prior to August 29, 2016 a resident of Freetown, Shawn Davis, who routinely walked his dog at the Treatment Plant, flagged Mr. Kennedy over. He asked him about the wood he saw on the grounds because he was trying to buy property to build a house and felt he could use the wood and take it off their hands. Mr. Kennedy referred him to Shawmut Avenue to make his request.
- He said on August 29, 2016 he was copied on an e-mail that was sent from one of the DPI clerks to Zeb Arruda regarding Mr. Davis's inquiry. He reached out to Mr. Davis and showed him the wood and on September 15, 2016 sent Zeb Arruda an e-mail with details and cost on Mr. Davis hauling out the wood and his understanding that the wood had no value to the Ernestina. Mr. Arruda gave his OK to move forward.
- From September 2016 through the end of 2016 there are communications from Mr. Kennedy and Mr. Davis on removing the wood. Mr. Kennedy remembers it taking two companies to remove all the wood and that one of the companies damaged a hydrant during the move and Mr. Davis paid for the damage.
- In December 2016 when Mr. Kennedy sent Mr. Davis an e-mail thanking him for his payment for the hydrant he asked him how things were going and Mr. Davis mentioned a few setbacks about the land he was trying to purchase on Long Pond but hoped for better luck in 2017.
- On January 10, 2017, Mr. Kennedy stated that Mr. Arruda informed him that the Ernestina wanted some of the wood and asked him to reach out to Mr. Davis to see if we could get some of the wood back. When he spoke to Mr. Davis he was informed that the property sale had not gone through so he ended up selling the wood to Cataumet Saw Mill in East Falmouth, MA.
- Mr. Kennedy called Cataumet Saw Mill to see if they would be willing to sell some of the wood back and the owner said he was not interested. They had already removed all the steel and in the past when they had interest in wood from other buildings that had been torn down in New Bedford they had not been considered so they were not interested in helping the City.
- He then said that sometime in February 2017 he and Frank Moniz were assigned by Commissioner Arruda to attend an Ernestina Commission meeting that was held downtown near custom house square. He said he spoke in front of 6-10 people and basically told them everything he just told me. He said at the end of the meeting the

people did not seem happy and stated that they wanted to investigate the matter further. The next day he updated Mr. Arruda on the meeting.

At the end of the meeting I thanked Mr. Kennedy for his information. He repeated that the general consensus in his department was that the wood had no value to the Ernestina and was taking up a lot of space at the Water Treatment Plant and that the articles that are alleging that something underhanded was done by the employees at the Water Department was very upsetting to him. He said he was a 32 year employee who dedicated his life to providing clean water to New Bedford and the wood being stored at the plant had nothing to do with him or any other employee who worked there. He said Mr. Labelle was the boss and if he wanted something stored at the Water Department it was stored and he didn't ask questions. He did not personally know Mr. Davis and believed him taking the wood off the treatment plant land was a good thing because his understanding was that the wood had no value to the Ernestina, the City had been trying to have it removed and it had just been sitting there since 2009.

On December 13, 2018 I called Charles Kennedy with a few more questions:

- I asked if where the wood was stored was inside or outside the fencing. Mr. Kennedy explained to me that there are locked gates around the perimeter of the plant and no vehicles can travel on the grounds. The wood stored in the garage could not be touched but the wood located in the parking lot was covered with a tarp but you could walk up to it. He said when all the wood was moved to the service road that was open for recreational walkers they could see or touch the wood but could not bring a vehicle in.
- I asked him who made the decision on the location of the wood when it was moved in 2015. Mr. Kennedy stated that he was definitely involved in the conversation and was most likely having the conversation with the foreman from Shawmut Avenue assigned to move the wood. He said the area selected was a wider road where the wood could be piled up at the edge of the road and not be in anyone's way, it was far enough from the plant that it wouldn't be underfoot but also close enough where they could see it.
- I asked if this road was a fire lane. Mr. Kennedy explained to me that all the dirt service roads are considered fire lanes and lead to the water and in an emergency fire situation the fire department could use them to obtain water for a fire but the wood was far enough off the road that it would not have been in the way or cause any obstruction if this occurred.
- I asked him if he could give me an estimate of how many timbers were being stored and he said he believes between 60-75 timbers, around 30 in the garage and maybe another 30 in the parking lot when they were originally stored. The full amount was moved to the paved road and the resident took the full amount when they were hauled away.
- Mr. Kennedy said he doesn't remember if they were hauled away on a weekend day or a weekday but he thinks it was done during the week. He said the first time it was

hauled a gentleman with a southern accent came and spread all the wood in a pine area and took certain pieces and then another company came to take the remainder.

- The Treatment Plant does have cameras but they primarily show the immediate exterior of the building and the entryways. Some do shoot out a little further but would not shoot out as far as where the wood was located.

On December 17, 2018 I called Mr. Kennedy and asked him if he ever received any type of payment from the removal of the wood and he said NO. I also asked him if he was the person who set up the meeting for Mr. Burnham to come look at the wood because when I spoke to Donna Amado she couldn't remember who she spoke to. He said he does not recollect speaking to her about this but said if he was out of the office or on vacation David Teixeira would have assisted. He said he would call David and ask him to call me.

I also asked him if he remembers speaking to Dan Menard in December 2015 about the DPW in Acushnet wanting some of the wood. He said he dealt with John Westgate from Acushnet who is his counterpart for their Water Department. His thought is that John would have told Dan Menard about the wood which is what prompted the call. He said he was going to look at his e-mails because he believed Dan came and looked at the wood but never took any.

I asked Mr. Kennedy why he contacted Mr. Arruda rather than Mr. Labelle when these inquires came to him regarding the wood and he stated that he couldn't answer for sure but he thinks that he thought Mr. Arruda would be the contact person for this matter.

On December 18, 2018 Mr. Kennedy sent me some additional e-mails from Michael Dyer at the New Bedford Whaling Museum and Dan Menard and John Westgate from the Town of Acushnet.

i). I called **Michael Dyer** on December 18, 2018 and left a message and he returned my call. He did recollect that he saw the wood at the water treatment plant and did inquire about it for an energy exhibition they were working on. He said they decided not to take any of this wood because the wood was outside and his recollection is that it had problems – it was rotted and loaded with nails. He said they ended up getting fir timbers from a facility in Lakeville.

j). I called **Daniel Menard**, Director of Acushnet DPW on December 18, 2018 and left message with Ann Marie Tomascik for him to contact me. He returned my call on December 19, 2018 and I asked him if he remembered speaking to Charles Kennedy in December 2015 about his interest in the wood at Quittacas to use on some structure for the Town of Acushnet. He said he did recollect asking about the wood. He believes it was for something the Building Inspectors were working on but he knows they never ended up with any of the wood. He doesn't remember if Zeb Arruda spoke to someone and was told they couldn't have it or if it was because it was really big and they would have required a lot of machinery to remove it but he did not receive any.

On December 18, 2018 I called Ymane Galotti current Superintendent of the Water Department to ask her if she could double check what the cameras at the Treatment Plant could see and if it could have covered the area of where the wood was taken. She called me back and said that

the cameras rewrite themselves and the maximum amount of time the film covers is a 3 month period.

On December 19, 2018 I called Mr. Kennedy to question an e-mail I received dated September 21, 2016 in which Mr. Davis asked him for something in writing that he could provide to the logging truck company to make sure he had permission for these timbers. Mr. Kennedy's recollection is that no letter had been provided and he had no further communication with Mr. Davis regarding this request.

On December 21, 2018 I called Mr. Kennedy because of an e-mail originally dated September 3, 2015 in which Mr. Labelle responds back to a request Mr. Davis made to him on August 3, 2015 explaining that ..."the materials you are referring to have a use and proposed purpose for projects still in the planning stages for the City of New Bedford..." Mr. Shawn Davis then proceeds to send additional e-mails to Mr. Labelle on September 3, 2015, October 1, 2015 and November 19, 2015 asking about timelines for the project, if he can be put in touch with who is leading the project and mentions that ..."as time goes on the wood is degrading and rotting and won't be of use in the near future for anyone..." He even states that he ..."would really like the opportunity to acquire some of the materials if possible, even if it was through a bid process..." Mr. Labelle answers him on November 19, 2018 and states "Mr. Davis, again you misunderstand these materials are not available to the public". Based on this e-mail I specifically asked Mr. Kennedy if he had been approached by Mr. Davis in 2015 regarding the wood or had met him prior to August 2016. Mr. Kennedy said the first time he met Mr. Davis was in August 2016, he had no idea that he had previously reached out to Mr. Labelle and that Mr. Davis never mentioned to him that he had made previous inquiries regarding the wood and had been given the answers Mr. Labelle provides in this e-mail.

b). Ronald Labelle, former Commissioner of DPI, retired employee

I met with Ronald Labelle on December 12, 2018.

In explaining the situation to Mr. Labelle he stated that he had been listening to the radio station and was aware of what was being said regarding the timber that had been stored at Quittacas.

I explained to him that I wanted to ask him some specific questions and then he could fill in any gaps and he agreed.

- He agreed with my understanding that former Mayor Lang and Dickinson Development Corporation had agreed to put aside southern yellow pine timbers from the Fairhaven Mills Building to be used for future restoration of the Ernestina Schooner. He said that he was familiar with the Dickinson Development Corporation owners Mark White and Mark Dickinson. He said he doesn't know the exact time but around the time the Fairhaven Mills was being taken down he received a call from the Mayor's Office asking if he could find a place to store it since Dickinson Development was going to donate the

wood to the Ernestina and by the City storing it would save an expense for them. Mr. Labelle said that flatbeds were loaded up with the timbers and it was originally stacked outside and he had our employees move it into a low lift garage to protect it because he knew it was for the Ernestina.

- He said that the first time he saw the wood it was in the garage and his first impression is that Mark White and Mark Dickinson did not give up the best stuff. He said basically when he saw it the wood looked like junk and it was all busted up and was full of nails and bolts.
- When asked if he ever spoke to anyone at the Ernestina Society he said no.
- When asked if he ever approved any requests from anyone to evaluate the wood or receive permission to go to the Water Treatment Plant to look at the wood he said no.
- I asked him who owned the wood. He said in his understanding the wood belonged to the Ernestina Society.
- He does not remember or believe a notice of surplus was ever posted.
- Mr. Labelle could not pinpoint any specific dates or times but when I mentioned that the wood was moved in 2015 he said that he remembers the reason that he had it moved is because Zeb Arruda told him that he talked to someone from the Ernestina and they said they didn't want it. He said he didn't know who he spoke to. At that time he said he had it removed from the building because it was taking space for equipment and had it moved to a parking lot behind the building and had it covered with a tarp. He doesn't remember seeing it anywhere else or in a fire lane.
- I asked him if he assigned Zeb Arruda to call saw mills to try and market the wood. He said he doesn't remember telling him to do this but he does remember Zeb telling him that nobody wants the wood because it is too much work to have it X-rayed and to have the steel removed.
- I asked him why he or someone from his department would not have been directed to call someone at the Ernestina to get in writing that they no longer wanted the wood. He said in hindsight that is what should have happened.
- He said before he retired the wood was still at the Water Treatment Plant. It wasn't a major issue on his radar because it had just been sitting at Quittacas for so long and in his estimation the wood had no value and no one wanted it.

I asked Mr. Labelle if there was anything else he wanted to add and he said that he feels very badly that this has become an issue and that he feels that he dropped the ball because this situation originally began on his watch. He feels very strongly that no employee profited or did anything illegal in this matter and that the situation could have been handled better.

On December 18, 2018, I called Mr. Labelle to ask him to come in and review his statement and to inform him that I had a few e-mails that were sent to him that I wanted him to review. He came to my office and agreed with the statement. I showed him e-mails dated August 16, 2013 in which he confirmed that the wood was... "stored in a building at the Quittacas Treatment Facility". He agreed with the e-mail. I showed him an e-mail dated December 4, 2015 in which he was asked to arrange for Mr. Burnham to visit the yellow pine at Quittacas and that he requested his staff setup the meeting. He agreed that he would have done this. We then had a

discussion that this conflicts with his reason for moving the wood out of the garage in 2015. He said that he could not confirm dates but knows at some point he had a conversation with Mr. Arruda who said that the Ernestina did not want the wood and the wood was taking up space in the garage at Quittacas so he had it moved. I asked him why Mr. Kennedy wasn't copied on this e-mail and he said that his job was to run the Water Treatment Plant he would not have been involved in this matter but he also stated that every morning he has a staff meeting for managers and Mr. Kennedy attended so he could have at anytime brought up any issues regarding the wood to his attention at these meetings.

On December 21, 2018 I called Mr. Labelle on the e-mail that originally was dated on September 3, 2015 that he sent to me on December 20, 2018 and asked him if he had the documentation from Mr. Davis's inquiry dated August 3 that he refers to in his e-mail. Mr. Labelle said that he has been searching for that documentation but cannot find anything. He said he remembers the communication being between himself and Mr. Davis and Mr. Davis being very persistent. He said the subject matter is timbers/cobblestones so he thinks he must have been interested in cobblestones along with the wood when he inquired. Mr. Labelle later notified me that he couldn't find an e-mail from Mr. Davis from August 3, 2015 so is assuming that it may have been a written communication.

Mr. Labelle also explained that the May 30, 2013 e-mail sent to Zeb Arruda and himself from James Ricci had nothing to do with the timbers for the Ernestina. He said that this e-mail had to do with the forestry program in which Mr. Benjamin had been hired through a bid process to clear trees in the forest at Quittacas to improve the health of the trees and to minimize fires. He said the wood from the trees that were cut down was sold to pay for the program so that there was no cost to the City.

On December 24, 2018 I called the Water Department. Mr. Ponte and Ms. Gilfeather were on vacation. I spoke to Ms. Safioleas and she had me speak to Rebecca Gomes who had boxed and filed correspondence from Mr. Labelle. I asked her to check for any correspondence dated August 3, 2015 specifically addressing the topic of timbers/cobblestones. She said that she would look into this. On January 3, 2018 Ms. Safioleas called and informed me that they went through their files and could not find the August 3, 2015 document.

On January 2, 2019 I called Mr. Labelle to ask him what he meant in his September 3, 2015 e-mail to Mr. Davis when he stated the materials he was referring to have a proposed purpose for projects still in the planning stages for the City of New Bedford. Mr. Labelle said that this gentleman was asking about the timbers and cobblestones and that he said he supplied Mr. Davis with a general answer with no details. He did not feel that this person needed the details about the wood being stored for the Ernestina.

c.) **EUZEBIO ARRUDA, former Commissioner of DPI**

I spoke to Zeb Arruda, who has resigned from the City and accepted other employment, by telephone on December 12, 2018.

Mr. Arruda stated that he had heard about the stories regarding the wood that had been stored at Quittacas.

- Mr. Arruda said that back in 2009 he was the Highway Superintendent and would not have been involved with the Water or Wastewater Division so had not been involved with the wood being stored at the Water Treatment Plant. He said that Charles Kennedy would be the best resource regarding this matter.
- He said he saw the wood the first time stacked in a garage at the plant when he and Ron Labelle were inspecting road projects he was working on and they went by the Water Treatment Plant. He said he didn't go often to the plant but when he did Mr. Labelle would talk to Charles Kennedy and he would just have general conversations with the other personnel until Mr. Labelle was ready to leave. He had limited conversations with Charles Kennedy.
- He said that each morning the managers met with the Commissioner and so his memory is that the wood being stored at the treatment plant would have been mentioned at one of the meetings and they would have been told at that time that it was being stored to eventually be used on the Ernestina.
- He doesn't know where the information came from but it just became common knowledge to their department that the wood was not good and not usable. He said the wood was loaded with nails and would have to be X-rayed. He said over time he remembers the wood becoming an operating issue for Charles Kennedy because of the inability to store equipment.
- He doesn't remember the wood being moved out in 2015 but said if it was it would probably have been Charles Kennedy who would have told the employees where to put it but the order would have come from the Commissioner's Office. He didn't know if it was covered with tarps or not.
- When asked why he started calling saw mills in 2016 and trying to market it he vaguely remembered speaking to Delano Saw Mills and explaining to them that he had some 12x12 timbers that were full of steel and needed to be X-rayed and they said they would not be interested because that type of wood would jam up their expensive saws. I asked who directed him to call sawmills and he said that Ron Labelle was his boss and he took direction from him.
- Mr. Arruda said he never met or spoke to anyone from the Ernestina Society.
- He also said he was not aware of any surplus property notice being posted
- He said that the wood was becoming an operational hazard as he believed it was in a fire lane and in a place with kids who rode dirt bikes could get hurt.
- When I read him the e-mail in which he gives Charles Kennedy the go ahead to talk to the resident interested in hauling away the wood he said he didn't remember it but stated if I had the e-mail then it must have happened. He said the wood was not a major issue on his radar with all the other work going on and the department's belief that for years the wood was no good, no one wanted it.
- I asked him if he remembered Christina Connelly speaking to him in January 2017 about the Ernestina wanting the wood. He said he vaguely remembered. When I asked why Frank Moniz was assigned to speak to Mr. Hargraves and Mr. Adams he said that Frank

was one of his best workers and very thorough so he would have assigned him to try and find a solution to this matter.

- He said the reason he assigned Charles Kennedy and Frank Moniz to attend the Ernestina Commission meeting in February 2017 is because he had no real knowledge of this issue and that over the years Charles Kennedy would have had the most knowledge to try and answer their questions. Frank was sent more as a support.

December 18, 2018 I called Mr. Arruda and asked him if he would come in to review his statement and to look at e-mails that had either been sent to him or he had been copied on regarding this matter. I met with him on December 18, 2018. He reviewed his statement and agreed with it. I told him that Mr. Labelle stated that the reason he had the wood moved in 2015 was due to a conversation he had with him about the wood in which he said you stated that after speaking to people from the Ernestina they did not want the wood. Mr. Arruda stated that he never spoke to anyone from the Ernestina about the wood. He said if he had been asked about the wood he said he would have stated that the wood was not in good condition and his understanding is no one wanted it. Again he said this was an understanding in their department for years that no one wanted the wood. He stated he does not know why the wood was removed from the garage in 2015 as he was not part of that decision.

I showed him the December 4, 2015 e-mail that he had been copied on in which Mr. Labelle was asked to setup a meeting for Mr. Burnham to see the wood. He looked at the e-mail and said if Mr. Labelle had assigned it to Donna Amado he would not have been involved with setting up the meeting. I also asked him about the December 14, 2015 e-mail in which Mr. Kennedy writes to him about Dan Menard from Acushnet DPW having an interest in the wood and Mr. Arruda stated that he never received a call from him and would not have given him the wood. He said the only dealings he had with Mr. Menard were in regard to changing their master water meters, a conversation they had regarding Lake Street and residents' properties that were blocking the easement to the dam. He did review the e-mails that led up to him giving Mr. Kennedy the OK to Mr. Davis's request and said based on what he understood about the wood and the information he received from Mr. Kennedy he saw no reason not to give his OK.

I asked Mr. Arruda why he was the contact person and not Mr. Labelle for Mr. Kennedy when he received inquiries about the wood. Mr. Arruda explained to me that it was easier for Mr. Kennedy to reach out to him because he was more approachable to him than Mr. Labelle. He said if there was a final decision to be made regarding the wood being removed during the time Mr. Labelle was in charge he would have spoken to Mr. Labelle at that time for him to make the final decision.

Mr. Arruda did say that he worked for the City for 19 years and put a lot of hard work and effort into his job and providing service to the public and he feels badly that this has become such a big issue. I asked him if he made any money or received payment from the removal of the wood and he said absolutely not.

d). **NATHAN ADAMS – Cataumet Lumber, E. Falmouth, MA**

I spoke to Nathan Adams on December 13, 2018 and explained to him why I was calling and provided him my questions and he said he would look into his records and do his best to assist me. He called me within a couple of hours and provided me with the following information:

- He said that their company spoke with someone from the Ernestina back in 2009 about milling wood. They provided the Ernestina people with a price but their price was more than what they wanted to pay. They then offered the Ernestina to purchase the wood which they would then mill and then the Ernestina could purchase what they needed back from them at a regular price. This never came to term and there was no further discussion.
- In 2016, Mr. Shawn Davis called them to tell them that there was a bunch of timber in the woods in Freetown available for sale. They did not know that this wood was the wood spoken about in 2009. He said his understanding is that a company from Louisiana came in first and took the best pieces and then they came in second and got the leftovers. I asked him if he knew the name of the company in Louisiana and he said he didn't. He explained to me that in the lumber world it is very common to have an organizer of a sale and one company gets to go in first and picks the best pieces and a second company comes in for the remainder.
- He said he has records of 2 checks made out to Shawn Davis. One dated 11/19/16 in the amount of \$2,500 and the other 12/5/16 in the amount of \$3,000.

e) **SHAWN DAVIS**

I spoke to Mr. Davis on December 13, 2018 regarding the timbers he had hauled from the Treatment Plant. Mr. Davis explained the following to me:

- Mr. Davis said he walked his dog on the trails at the Water Treatment Plant and for years he saw these large piles of wood just sitting in the woods rotting away. He said he is an engineer by trade but also a tree hugger and it bothered him seeing the wood just sitting there.
- He said he was trying to buy a piece of land to build a house and he was thinking of starting a non-profit emphasizing the use of sustainable materials. His thought was that if he could use the wood on the beams for his house it would exemplify his philosophy in showing how you could use materials that were just wasting away for something good.
- He said in 2016 he spoke to Charles Kennedy at the Water Department about the wood and Mr. Kennedy told him he would have to call the administration office about his request. He then said he spoke to he believes a Mr. Arruda and a Ms. Safioleas about being able to haul the wood from the grounds and then some time after this Charles Kennedy called him to tell him it had been approved and he could have the wood.

- He said he started calling different companies and his goal was that the wood would have been brought to the land he was trying to purchase and the goal was to get to the center of the wood to use beyond the rot and the nails for beams for his house.
- He said during the process the property purchase fell through and also was told the wood was not good enough to make beams. I asked him when the purchase of the house fell through and he said he would have to look it up but knew it fell through during the middle of the process.
- He said at this point because he was in the middle of it he felt bad pulling out so he just went forward with having the wood removed. He also didn't want the wood to just rot away and not be used for something.
- He did not remember the name of the first company and couldn't confirm it was from Louisiana but he knows someone came and selected a few pieces and then he reached out to a company in E. Falmouth to take the rest.
- I asked him if he ended up with any of the wood and he said no, that basically he made a key chain from one of the timbers.
- He said both Charles Kennedy and the other foreman were very kind and helpful through the process.
- I asked him what he thought when he received a call in January that they were looking to get some of the wood back. He said he was surprised because he figured that was the piece that had been handled by the main office before they had given Charles the OK to approve him going in. He said he actually felt bad because the project for the Ernestina would have been an example of a sustainable project which is what he believes in.
- He asked me if his name would become public because he didn't feel he did anything wrong and was given permission to take the wood away. I did explain to him that we do have e-mails with his name on it and they are public records so it is possible that his name may come out. He stated he understood.

On December 17, 2018 I left a message for Mr. Davis to call me. He called me back and I asked him if he gave any money to any city employee during the time he was having the wood removed and he said absolutely not. He said he was not comfortable providing me with the amount of money he received from the other company and could not provide me with the name of the company. He also said the reason he couldn't provide me with an actual date the land fell through is because it went downhill in sections. He said first he learned that the well water was no good so he was looking at the possibility of putting in a new system, he then said the land needed a new septic system and then at some point the owners received another bid for the land. He stated that he read the articles and feels very uncomfortable with what is being said. He said his understanding is that the wood was no good to anyone and that by hauling it out he was doing the city a favor and his goal was to try and make sure the wood got used rather than allowing it to rot in the outside.

On December 19, 2018 I called Mr. Davis to discuss the September 21, 2016 e-mail in which he asks Mr. Kennedy for a letter to provide to the logging company that states he has permission to take these timbers. Mr. Davis called me right back. I read him the e-mail and he said no he

never received an official letter and all future communication with Mr. Kennedy was done through e-mail.

On December 19, 2018 I received an e-mail with a start date of September 3, 2015 from Ron Labelle to Mr. Davis replying to his inquiry about the wood on August 3, 2015. I have asked Chief Cordeiro to assign a police employee to speak to Mr. Davis since Mr. Davis never mentioned his previous inquiries about the wood to me during our conversations and there appears to be holes in his story. On the same day Chief Cordeiro assigned Detective Shawn Robert to this matter. Detective Robert meet with me and said he would try and make contact with Mr. Robert over the weekend.

On December 24, 2018 and December 28, 2018, the Chief provided me with Detective Robert's reports and photos (see attached documents).

f) **DAVID TEXEIRA – former Lead Treatment Plant Operator, retired employee**

I spoke to David Texeira on December 17, 2018 because Donna Amado stated she couldn't remember who she spoke to when Ron Labelle sent e-mail on December 4, 2015 for her to set up meeting with Mr. Burnham and Charles Kennedy does not recollect being at the plant when Mr. Burnham came.

Mr. Texeira stated that he did not set up the meeting. He said he received a call from someone, he does not recollect who, from the administration office and was told that some people would be coming to look at the wood and to show them where it was located. He said the two men rang the bell and he let them in and at this time the wood was located in one of the fire lanes at the treatment plant. I asked Mr. Texeira if they told him that they had interest in the wood. He said he remembers telling them that if they have any interest in the wood they would have to contact the people who set up the meeting with them because he would have nothing to do with this.

He said this is not the first time people had come to look at the wood. He said when the wood was originally stored in the garage and the back parking lot the people who looked at it then spoke to the Chief Operator, Robert Giard and said they couldn't do anything with the wood because it was loaded with steel and pipe. He said for many years the employees of the Water Department believed the wood was useless to the Ernestina.

David made it clear that he had nothing to do with the wood. Any direction regarding the wood would come from the administration office. He said over the years many things have been stored at Quittacas. He mentioned rowboats and props for what looked like a stage production had been stored there. He said his job was to take care of the operations of the plant.

He also said over the years other people mentioned interest in the wood. He gave an example of someone from the Whaling Museum who was doing a story on factories in New Bedford and

said he would like a piece of wood but had no vehicle to move it. Mr. Teixeira told him he would need to talk to the administration office if he was interested. He doesn't believe the person went any further with the matter.

Mr. Teixeira said that the wood on the fire area was hazardous. He felt it easily could be set on fire and the way it was stacked a child could hurt themselves.

He said he was a low level manager and would have no authority over the wood. He received no payment or money from anyone for this wood.

g) **ROBERT GIARD – former Head Treatment Plant Operator, retired employee**

I spoke to Mr. Giard on December 17, 2018 and he said he does remember when a year or two after the wood had been stored someone coming to look at it. He said he didn't know if it was people from the Ernestina or from the State. He said at that time the people looking at it told him that the wood was garbage and that no saw mill would use it because of all the nails and steel in it. He said he tried to pry a nail out of it and it broke.

He said when Ron Labelle saw it he said the wood was garbage. Mr. Giard said the wood had old fashioned cut nails that were very long and that it would cost a lot of money for the wood to be cleaned up even before it could be milled.

He said he had already retired when the wood was moved but in his opinion, based on the way the wood looked that if it was out on one of the roadways it was an accident waiting to happen because a child could hurt themselves if they climbed on it. He received no payment or money from anyone for this wood.

h) **LICY DO CANTO – FORMER CHAIRPERSON, THE SCHOONER ERNESTINA COMMISSION**

On December 14, 2018 I left a message for Licy Do Canto and asked him to return my call.

Mr. Do Canto spoke to me on December 17, 2018. He explained to me that he was the Vice Chair in 2015 & 2016 and the Chair in 2017 of the Ernestina Commission.

He said the Commission was aware that the wood existed but not sure how it originated. He said that in many cases there are local efforts made to assist the Commission. He said SEMA, Inc. would have probably been the ones involved with this matter. He said they as a commission don't get involved in these efforts.

He said to his recollection the commission was aware that the wood existed and it was put aside for the renovation of the Ernestina. He doesn't believe there were any formal documents

regarding this but they were aware of it but it was not in their possession so they would not be in a position to comment on it. He said the commission would have had no formal communication about it and would not have sent anyone to inspect it. He said that the Ernestina has good quality wood they were using toward the renovation of the Ernestina and that if the wood was being offered to them they would not accept it and would not be in a position to make a decision on what to do with the wood once it wasn't accepted. He said he would have to leave that decision to the City.

i & j **Michael Dyer & Daniel Menard** - please reference page 14 for their statement under Charles Kennedy.

k). **IRENE SCHALL , former City Solicitor under Mayor Scott Lang**

I called Irene Schall and left a message on December 18, 2018 and she returned my call. I specifically spoke to Attorney Schall about the letter dated September 30, 2010 from Dickinson Development regarding their Request for a Certificate of Compliance with the Covenant, Fairhaven Mills because it referenced in the letter ..."wood beams salvaged from the mill were donated to the reconstruction of the schooner "Ernestina" in support of the City's maritime heritage". Attorney Schall informed me that she was not aware or involved with any decisions regarding the wood and did not believe it was in the contract. She said she focused a lot of her time on the sailing school and pier that was supposed to be built during this time.

Attorney Schall called me back on December 19, 2018 and said that although she was not part of the decision making with the wood she said that legally the Ernestina and the City do not own the wood unless the Ernestina filed paperwork with the State to take possession of the wood and the City would have had to declare it their property and be approved by City Council for us to show ownership. Only if that occurred would the City then be required to declare it as surplus. She said she does not remember any papers being filed at the time for either the Ernestina or the City to take ownership.

l). **FRED STERNER – FORMER CHAIR OF THE ERNESTINA COMMISSION**

I spoke to Fred Sterner on December 18, 2018. He answered the phone when I called SEMA, Inc. When I told him I was looking to speak to someone from SEMA regarding the wood from the Fairhaven Mills that had been stored at Quittacas he suggested I speak to Julius Britto. He then proceeded to tell me that he was the Ernestina Commissioner at the time the wood had been donated for the deck of the Ernestina. He said he believes that it is just himself and Brian Rothschild who are still members of the commission during this time. He said he was present at the board meeting that the two employees from the City attended to explain what happened to the wood. He said he wasn't happy that the wood was no longer there and didn't agree with

it being a danger to children. He said the two people who came said something like the wood was given to someone to help build their house and some ended up at a saw mill. I mentioned Cataumet Saw Mill and he said that sounded familiar. I asked him why the wood had stayed at Quittacas for years and he said that the work for the deck on the boat had only started last year. He said he is the one who took Harold Burnham out to see the wood and at that time he gave Harold a card with a City employee's name on it that Harold could bring back to their procurement office to contact once they were ready to collect the wood. He said since then the procurement officer has passed away. He said at that time he and Mr. Burhnam told the employees there they wanted the wood. I asked him if he remembers anyone stating that the wood was not usable because of all the nails and bolts in it and he basically stated that there weren't that many nails. I asked him if either anyone from the Ernestina or SEMA had reached out to other saw mills to find out what the cost would have been to clean and mill the wood. He said a regular saw mill would have trouble with this wood because they would need to use a metal detector but he said Harold had a saw mill in Maine that would have been able to work on it. He also said that the wood is not worth the amount of money being listed in the paper. He actually said it is not worth a lot because of the additional costs to process it but he said it had a lot of sentimental value and is very upsetting that someone was allowed to take it. He then said that the Ernestina ended up obtaining douglas fir timbers for the deck. He then said that he probably shouldn't be speaking to me so I thanked him for his time.

m). **MARK WHITE – DW. WHITE CONSTRUCTION**

I tried to reach Mark Dickinson from the Dickinson Development Corporation but the number listed was out of service. After a deeper research I found an article that stated the Dickinson Development Corporation files as a Foreign for Profit Corporation in the State of Florida and is no longer active. I then contacted Mark White who informed me that Mr. Dickinson moved to Arizona. I explained to Mr. White why I was calling and he said it was his company who brought the wood over to the Water Treatment Plant on their flatbeds. He said the wood was clearly earmarked for the Ernestina and from what he remembers is that they did not have a facility yet to store the wood because they were still in the process of raising money. I asked who he spoke to at the City to transport the wood over to the Water Treatment Plant and he said he didn't remember because there were a lot of people involved. He said it may have been someone from the DPI Administration Office or the Planning Board. He said that Mayor Lang was very involved and so was Matt Morrissey. I asked him when he dropped the wood off did he drop it outside or inside a facility and he said he couldn't remember but knows he dropped it off. I asked if he knew how much wood was dropped off and he said he didn't remember but it was a lot. I then asked him if Mr. Dickinson would be able to supply me with any additional information and he said no he wouldn't. He then said he actually would have the most information because he was in charge of moving the wood.

n). **JULIUS BRITTO – SEMA, INC.**

December 19, 2018, left message for Julius Britto to call me. Mr. Britto returned my call.

- I asked him what his understanding was for the use of the wood from the Fairhaven Mills that had been stored at the Water Treatment Plant. He said he doesn't remember the exact year but he remembers former Mayor Lang making an arrangement for the wood to be used for restorations to the Ernestina. He said it would have been the same year that a new mast was being placed on the Ernestina from money that SEMA had raised. He said the wood had a lot of significance because it dated back to 1894 and that was the same year the Ernestina was launched so to have yellow pine from that year was significant.
- I asked him if he remembered Mr. Poindexter and Mr. Sterns going to look at the wood in 2011 and if he was aware of what their opinion was of the wood at that time. He said although he doesn't remember them telling him anything he said it would have been Mr. Poindexter, who after looking at it, who would have passed on his information to Harold Burnham who later came down to see the wood. He said his understanding was that everyone was in agreement that the wood was usable and the intention was to use the wood.
- He agreed that the reason the wood stayed for the years it did at Quittacas was due to the fact that it was going to be used for the deck and work on the deck had not actually started until a year ago.
- His understanding is that no papers were filed to take possession of the wood but the understanding is the wood was for the Ernestina.
- I asked him if he attend the February 2017 board meeting in which the removal of the wood was being discussed. He said that he actually came in late to that meeting and the discussion was already taking place so he didn't hear all of it or have a good grasp on what was being said.
- I asked him if he spoke to anyone directly from the City regarding this wood and he said that Mary Anne McQuillan whose title is secretary but basically does everything for them would have been the one communicating with the City. He said he actually spoke to her before calling me and even though she is away she would be happy to speak to me so he provided me with her telephone number
- I asked him if there was anything else he wanted to tell me and he said no so we ended the conversation.

o). **FRANK HARTIG, ASSISTANT GENERAL COUNSEL – DCR**

On December 14, 2018 I left a message for Wendy Pearl at Department of Conservation and Recreation (DCR) and asked her to return my call.

On December 18, 2018, I called and left another message for Wendy Pearl from DCR to return my call. I do have an e-mail dated January 13, 2017 in which Ms. Pearl states "The shipyard was not relying on this source of material and its loss will not affect the contract."

Attorney Hartig contacted me on December 20, 2018 in regard to the messages I left for Wendy Pearl from DCR to call me. He said that Wendy requested he contact me because she had no knowledge of the wood and had only found out about the wood when she started being copied on e-mails he believes back in 2017. She is a Chief Planner and was not even assigned to the Ernestina project until December 2015. He said that any information regarding this matter would come from Harold Burnham who is a consultant for them on the Ernestina Project. He said he has read a few of the newspaper articles and wished that he could be more help but there is nothing in writing that came to them regarding this wood. He said he would forward over any e-mails they have on file regarding this matter in case I did not already have them. He also stated that Mr. Burnham's telephone number was listed in the e-mails. I thanked him for his time and the conversation ended.

p). **MARY ANNE MCQUILLAN – SECRETARY, SEMA, INC.**

Mary Anne spoke to me on December 20, 2018. She took the time to explain to me the difference between the Ernestina Commission, Department of Conservation and Recreation and SEMA, Inc.

Basically she explained to me that in 1992 legislation was established for the Department of Environmental Management to make sure the commission was following state regulations especially in regard to raising money. She then said in 2000 DCR took over and the Ernestina is now considered a National Park. At one time the commission was eliminated and then re-established in 2007 and SEMA, Inc. came in 2008. She said the commission and DCR are the agencies that make the decisions about the Ernestina and SEMA, Inc. is a private organization that raises money for the Ernestina and provides the public information.

Mary Anne stated that she first learned about the wood from then Mayor Scott Lang around 2010.

She stated that the estimated sum of the wood's worth in the paper is ridiculous. She said this might be what brand new southern yellow pine would be worth but not what was donated. She said the hope for the Ernestina was that it would be a financial wash based on what it would cost to clean and mill it but more importantly the wood was a connection to the City of New Bedford and the original deck of the Ernestina was made from southern yellow pine and this pine was the same year the Ernestina launched so it had significant value. She did say that they ended up getting beautiful douglas fir for the deck.

She said her understanding is that no papers were filed to legally take possession of the wood but it was definitely suppose to be used for the Ernestina's deck restoration.

I asked her if she ever spoke to anyone from the City to set up the meeting for Harold Burnham and she said she remembers giving Fred Sterns the number and he set it up. She said at the time of Mr. Burnham's visit he told the people at the Water Department that they would be in touch for the wood but not right away.

Mary Anne said a year went by before they were ready for the wood then she said in December 2016 the procurement officer in Maine called someone at DPI and was told the wood was gone. He then told Mr. Burnham who told her and then Mary Anne went directly to City Hall to inform the Mayor's Office. She said SEMA, Inc. has no say in this matter so it was referred to the commission.

Mary Anne said she attended the February 2017 board meeting just as a public citizen because it was a public meeting. I asked her what was said at the meeting and she said the employees from the City stated that they thought no one wanted the wood and that someone who was walking in the woods asked for it to build their house. They also said it was a danger to children who might get hurt if they climbed on it. They said they would go back to see if they could find out more of what happened to the wood. She personally didn't feel like the commission got a lot of satisfaction from them.

She said that her understanding is that Wendy Pearl from DCR was going to look into the legality of the matter and because it was never legally received by the state the issue was not pursued but that I needed to speak directly with Wendy Pearl to verify this information.

She said moving forward things are positive for the Ernestina and SEMA, Inc. would not want to be involved further in this matter.

q). **CHRISTINA CONNELLY, CHIEF OPERATING OFFICER TO MAYOR MITCHELL**

On January 15, 2018, I spoke to Christina Connelly. I asked her to review the e-mails that were either sent to her or she was copied on to ensure that there was no additional information that she could offer with the investigation. I also asked her if she remembers if she had any telephone communications during this time and if she remembered the context of these calls.

Ms. Connelly reviewed the e-mails and stated that they showed a clear history of her involvement with the wood stored at Quittacas. She said any telephone communications would be specific to this issue.

She said she never saw the actual wood at Quittacas and did not know it had been removed until Diane Roy e-mailed her on January 10, 2017 to inform her of the conversation she had with Maryann McQuillian that the timbers were no longer at Quittacas and that she wanted to speak to her. She said that she immediately reached out to Mr. Arruda and asked him to look into it.

I asked her if Mr. Arruda gave her an explanation on why he approved to have the wood removed and she said the only thing she remembers him saying is that during the time Mr. Labelle was the commissioner he had been tasked by Mr. Labelle to get rid of the wood. She also stated that she remembers Mr. Labelle bringing up the issue that the wood was an impediment to their operations at a staff meeting once or twice but could not remember the dates.

She said after it was determined that the wood at Cataumet Lumber was not suitable in quantity or condition to be used for the deck of the Ernestina and Mr. Arruda stated that Cataumet Lumber told DPI that he had sold some of the wood to a customer down south and gave both parties each other's information and hoped they would be able to work it out the DPI investigation ended.

She said that Mary Ann and Julius Britto were disappointed but understood it wasn't intentional. She said she apologized to them on behalf of the City and informed Mary Ann that someone from DPI would be attending the Schooner Ernestina Commission public meeting to provide an explanation.

She said her understanding after this meeting is that everyone moved forward. She said since this meeting she has had subsequent meetings with Mr. Britto and Mr. Stackpole on issues pertaining to the Ernestina that involve outreach fundraising, ongoing projects and programming and no further communication has occurred on the wood.

r). **HAROLD BURNHAM, SHIPWRIGHT & DCR CONSULTANT TO THE ERNESTINA RESTORATION PROJECT:**

In the e-mails sent to me from Attorney Frank Hartig at DCR there was a number listed for Harold Burnham. The number was for Mr. Burnham at Schooner Ardelle, Inc. and Burnham Boat Building. When I called this number the recording stated that they were closed for the 2018 season.

I then called Mary Ann McQuillan at SEMA, Inc. to see if she had a number for Mr. Burnham. She was not comfortable providing me with her number. I asked if she would reach out to him to either call me and to get his permission for me to call him. She called me back and provided me with a number to contact him. Mr. Burnham stated that when he went to look at the wood at the Water Works he said he saw that it did contain a lot of bolts, nails and rods and that all of this iron would have to be removed. He said it is risky to work with this kind of wood because you don't know what is inside of it but he did tell DCR that it was usable wood. He said it would be very labor intensive and had no idea how much it would cost and the wood would have to be trucked to the mill that would be able to work on it. The hope would be that the cost would be equal to buying brand new wood and in addition would have the connection to the City. He said it would take someone who specialized in this work to determine the value as it is a difficult process, it is not his specialty. He said for the Ernestina deck they were looking for 3' x 5' quality decking that would have to be perfect. I asked him if he remembered the name of the DPI employee on the card he that was given to him by Mr. Sterner and he said he did not. He said he provided the card to the procurement officer at DCR and it was the procurement officer who was the one who told him the wood was gone after he reached out to DPI the following year.

OTHER INDIVIDUALS SPOKEN TO OR E-MAILED DURING THIS INVESTIATION:

As part of the investigation I called and spoke to Ken Pittman at WBSM on December 14, 2018 to introduce myself and ask him if he had any information he could provide me with the investigation or anyone to speak to or specific questions he had.

He told me that he appreciated me calling him. He referenced contacting the Colonial Railway because one of his reliable contacts has alleged that on July 4, 2015 there were timbers seen being put on a freight train to be sent to South Carolina. He said this would have been about two weeks after Mr. Burnham went out to look at the wood. He mentioned that Mr. Harold Burnham is very difficult to get in touch with. He did not disclose the name of his source.

I could not confirm the railway information but based on Detective Robert's reports it has been concluded the company was from Mississippi not South Carolina and the wood was brought back with trailer trucks sometime after September 15, 2016 once Mr. Davis was given the OK to remove the wood.

I also I sent an e-mail to Councilor Brian Gomes on December 14, 2018 informing him that I had been assigned to look into this matter and to feel free to contact me if he had any information to provide to me or anyone he thought I should speak during the course of the investigation. Councilor Gomes did not respond to my e-mail.

Investigation Completed by:



Sandra Vezina, Human Resource Director

1-18-19