



**Environmental Stewardship Department/
Conservation Commission**

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

**Meeting Minutes of the Conservation Meeting of
March 20, 2018
Brooklawn Senior Center**

Members Absent

Dennis Audette

Staff Present

Agent Sarah Porter

Sandy Douglas, Admin., Coordinator

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

CALL MEETING TO ORDER
ROLL CALL OF COMMISSIONERS

Roll Call of all Commissioners' Present: Chairman Craig Dixon, Commissioner Jacob Gonsalves, Commissioner Chancery Perks, Commissioner Peter Blanchard and Commissioner Paul Pacheco.

OLD BUSINESS:

NONE.

NEW BUSINESS:

NONE.

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) - 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. **SE49-0739** – (Continued from 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, 20/20/18, 3/6/18) - A Notice of Intent as filed by Michele Paul, Director of Environmental Stewardship for the City of New Bedford for property identified as Ruggles Street and Hathaway Boulevard (Map 69, Lots 86, 88-93, 96-100, and 125). The applicant proposes to conduct remediation activities to remove contaminated soils followed by construction of an athletic facility. Representative is David Sullivan of TRC Environmental. **CONTINUED**
3. **SE49-0785** – (Continued from 1/2/18, 1/16/18, 2/6/18, 2/20/2018, 3/6/18) - A Notice of Intent as filed by Heik Milhench for property identified as 127 Duchaine Blvd (Map 133, Lot 21 and a portion of Lot 12). Applicant proposes to construct an 18,000 square foot addition with associated parking, grading and utilities. Project proposes 3,200 square feet of Bordering Vegetated Wetland alteration with associated replication. Representative is Stevie Carvalho of Farland Corp. **CONTINUED**
4. **SE49-0791** – (Continued from 3/6/18) - A Notice of Intent as filed by Tim Cusson of SMRE 61, LLC for property identified as 61 John Vertente Boulevard (Map 133, Lot 47). Applicant proposes to construct an alternate access driveway with associated grading and a rain garden in the 100' Buffer Zone to a Bordering Vegetated Wetland. Representative is Christian Farland of Farland, Corp. **CONTINUED**

NEW HEARINGS:

1. **SE49-0793** - A Notice of Intent as filed by DPM Development, Inc. for property identified as Map 136, Lot 481 Seth Daniel Drive in the Settlement subdivision, East of Acushnet Avenue, New Bedford. Applicant proposes to construct a single family dwelling with associated driveway, utilities and grading within the 100' Buffer Zone to a Bordering Vegetated Wetland. Representative is Jeffrey Tallman of SITEC, Inc.

Mr. Jeffrey Tallman of SITC, Inc., was present on behalf of the applicant DPM Development, Inc. Mr. Tallman advised the Commission that this application is for the construction of a 26' x 36' single family dwelling with attached garage and 12' x 12' deck in the backyard on Lot 11. Will have five cultex chambers, limit of work was established at the time of the subdivision and there is a post and rail fence in the back that will be relocated a couple of feet.

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

Agent Porter stated that this is another single family dwelling being proposed in The Settlement and the limits of disturbance were established under the original subdivision layout. Recommendation for an issuance of an Order of Conditions with the following special conditions: 12" diameter wattles are to be replaced prior to the onset of construction; new wattles placed at same location of existing wattles; at the time of land transfer the property owner and any successor shall require the buyer sign an acknowledgement that a split rail fence is the limit of disturbance on lot 481 in perpetuity. This acknowledgement shall be signed and notarized, the original of which shall be submitted to the Conservation Commission.

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

2. **SE49-0794 - A Notice of Intent as filed by DPM Development, Inc. for property identified as Map 136, Lot 482 Seth Daniel Drive in the Settlement subdivision, East of Acushnet Avenue, New Bedford.** Applicant proposes to construct a single family dwelling with associated driveway, utilities and grading within the 100' Buffer Zone to a Bordering Vegetated Wetland. Representative is Jeffrey Tallman of SITEC, Inc.

Mr. Jeffrey Tallman of SITEC, Inc., was present on behalf of the applicant DPM Development and advised that this application is the same as previously proposed, same size house, same number of cultex units, 12'x12' deck, driveway, the limits of work have been established and the post and rail fence extends onto lot 9 and will be relocated to the correct location.

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

Agent Porter stated that this is another singly family dwelling in the buffer zone and recommended the issuance of an Order of Conditions with the following special conditions: Recommendation for an issuance of an Order of Conditions with the following special conditions: 12" diameter wattles are to be replaced prior to the onset of construction; new wattles placed at same location of existing wattles; at the time of land transfer the property owner and any successor shall require the buyer sign an acknowledgement that a split rail fence is the limit of disturbance on lot 482 in perpetuity. This acknowledgement shall be signed and notarized, the original of which shall be submitted to the Conservation Commission.

Commissioner Gonsalves made a motion to approve as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Perks. All in favor. Motion carries.

3. **SE49-0792 - A Notice of Intent as filed by Mary Rapoza, City of New Bedford Director of Parks, Recreation & Beaches for property identified as Buttonwood Park (Map 49, Lot 14).** Applicant proposes to conduct an Aquatic Management Program at Buttonwood Park Pond. Representative is Mathew Salem of Solitude Lake Management.

Collin Gosselin of Solitude Lake Management was present on behalf of the applicant and advised that they are proposing herbicide treatment of Buttonwood Pond. Mr. Gosselin stated that the park is proposing to use swan boats and are proposing to treat 80% of the pond over several years. They are not looking to control all the weeds just looking to cut them back for recreational activity.

Commissioner Perks inquired if there is a full management plan for the pond. Mr. Gosselin stated that there is and it has been submitted.

Chairman Dixon was concerned with what affect the herbicide will have on the fish and wildlife. Gosselin stated all herbicide used are registered through government and the concern is if it kills too many plants they start to decompose and drops the oxygen level. They have never had that happen and it's something they are concerned about and will take into account.

Agent Porter inquired as to why they are proposing to treat some of the native pond weeds and it's described as being sparse and moderately dense but it provides good habitat and food for water fowl and why proposing to treat them.

Mr. Gosselin stated if someone fell into pond it could become a safety issue and someone could drown. Their intention is not to clean the place up it's just to manage the growth and it's control herbicide and they are able to treat in certain areas and leave some areas untouched which is their ultimate goal.

Agent Porter stated that this is a recreational pond and are proposing to treat 6.5 acres of the pond and application says 10 acres and permit will be for 6.5 acres. Agent Porter advised that this is being proposed by the swan boat people because they can't use the swan boats because of algae and the submerged aquatics in the pond.

Gosselin stated the treatment will ultimately benefit the fish and wildlife because right now it's so choked up and there needs to be some open water to create better habitat.

Commissioner Dixon inquired whether the surface of the pond is cleaned out or not. Mary Rapoza replied that it has not been cleaned out but DPI has plans to renovate the dam as Phase I and once that is completed sometime in the future they will dredge the pond.

Commissioner Pacheco inquired whether this process will be conducted each season. Mr. Gosselin stated part of the management plan is doing surveys and it will be on a year by year basis.

Agent Porter inquired of Mary Rapoza if she received any comments from the Zoo? Ms. Rapoza replied that she has not heard anything from the Zoo.

Agent Porter advised that there is water fowl in the pond and would like the duck weed left in the pond for water fowl food and it's also not problematic for the swan boats.

Commissioner Perks inquired as to when they would be performing this work. Mr. Gosselin replied that they would like to do it in late May or early June.

Mr. Gosselin stated that they could submit a progress/summary report at the end of the year to the Commission. Agent Porter suggested that it be submitted every three months and Mr. Gosselin stated that they could submit a pre-treatment one at the beginning and then in September or October submit a post season survey. Commission agreed.

Agent Porter recommended that the New Bedford Conservation Commission grant a five year permit instead of 3 years because Aquatic management plan is a five year program; all herbicide application shall be performed by a certified applicator, applied in accordance with the recommended label rates and in accordance with this Order of Conditions and the MA DEP License to Apply Chemicals Permit, permitted to use glyphosate and Imazamox on nuisance white water lily, common reed, and purple loosestrife, and permit the use of diquat on pondweeds, permit the use copper based algicides are permitted for the management of filamentous and microscopic algae; permit the use of fluioxazin or any other herbicide on duckweed is prohibited. The applicant has requested to come back before the Commission with a written request to use endothal, fluridone and other herbicides, if the vegetation compositions shifts, without need to amend the Order provided all information requested by the Conservation Commission is provided. If the Commission feels the request is significant or information is not provided, a request for an Amended Order is to be filed by the applicant. Annual monitoring reports are due by December 1st of every year and shall document every day the pond is visited describing any actions or observations made. Annual reports shall also document any impacts to non target species and modification made to avoid impacts. The efficacy of the program shall be discussed and future recommendations provided, including the proposed herbicides to be used in the upcoming year.

Commissioner Gonsalves made a motion to approve as recommended by the Agent with special conditions as read. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

4. **SE49-0797** - A Notice of Intent as filed by David Fredette City of New Bedford Department of Public Infrastructure for property identified as the Tarkiln Hill Road and Kings Highway intersection. The intersection falls within the MASS DOT Railroad Right of Way adjacent to Map 125, Lots 113 & 29 and Map 123 Lot 109. Wetland replication also falls within MASS DOT Railroad property (Map 102, Lot 78). Applicant proposes to reconstruct the Tarkiln Hill Road and Kings Highway intersection and provide associated drainage improvements and wetland replication. Representative is David Fredette, City Engineer.

Mr. David Fredette, City of New Bedford Engineer, Stephanie Crampton, City of New Bedford Engineer were present on behalf of the City of New Bedford DPI and Richard Carey of VHB, representing Mass DOT.

Mr. Fredette advised that this is a fairly complex collaborative effort and that the stormwater report and supporting documents were provided by CDM who is doing the design for Kings Highway project to be constructed in 2020. The City is proposing to work on the manholes which Mr. Fredette indicated to the Commission on the plan. Mr. Fredette added that the stormwater report has considered this to be a limited project and the justification is in the stormwater report. The purpose of this drainage is to take care of the current flooding in this area and enhances the drainage to the railroad right of way and are proposing to increase the culvert pipe size. This stormwater design was handled by CDM and is based on what will be constructed in the future. This project is designed as an advanced work project for the South Coast Rail.

Commissioner Dixon inquired as to what the current pipe size is that is being upgraded. Mr. Fredette stated it is 24" and will be increased to a 4x3 culvert and 30" pipe.

Agent Porter advised that the DEP File # has not yet been received and she needs to review the wetland replication notes and inquired whether the Commission would like to send this application to Nitsch Engineering for peer review.

Commissioner Pacheco made a motion to send this application to Nitsch for peer review. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

Commissioner Gonsalves made a motion to table this matter to April 3, 2018. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

NEW BUSINESS CONTINUED:

1. **Vote for new Community Preservation Act representative (Dennis Audette has resigned).**

Commissioner Gonsalves made a motion to appoint Paul Pacheco Community Preservation Act Representative for this Commission. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

2. **209 Theodore Rice Boulevard – minor change**

Agent Porter advised the Commission that the gas station and convenience store owner has requested a minor change to the entrance way and it's outside of the buffer zone. Agent Porter indicated on the plan the suggested change.

Commissioner Gonsalves made a motion to approve the minor change of the entrance way as requested. Motion was seconded by Paul Pacheco. All in favor. Motion carries.

3. Agent Updates and General Correspondence

Giselle's Way

There are three houses on this road, one of the homes is abandoned and one house is occupied in the front and the back house is getting flooded out because the culvert is crushed. It's the responsibility of Mr. & Mrs. Giselle Gonsalves. They need an emergency certification to correct that culvert. DPI will not do the work they have to hire their own contractor. Mr. Gonsalves owns the road and the culvert and he is convinced that water is coming from surrounding neighbors but it's coming from the crushed culvert. Agent Porter checked the culverts, one you can't see anything come out of it and the other has a trickle.

Commissioner Perks inquired as to what the difference is with them doing the work under an Emergency Certification versus filing a Notice of Intent. Agent Porter explained that under the emergency certification it allows the owners to fix it in kind and not have to hire an engineer.

Chairman Dixon inquired whether it's a good idea to replace it in kind. Agent Porter replied that under an Emergency Certification they can do what is necessary to abate the emergency.

The Commission agreed that the owners have to apply to do the work as an Emergency Certification. Agent Porter will notify the owners.

121 Tarkiln Place

Agent Porter advised that the owners at 121 Tarkiln Place advised that they have tall trees 30'-40' from the house, two of them are leaning towards the house and third one was suggested that it be cut down by the tree cutting company that gave them an estimate.

Commissioner Gonsalves inquired as to how many trees are they asking to cut down. Agent Porter replied three.

The Commission agreed that the two that are leaning can be cut down by climbers and where it falls it stays. As for the other tree that has dead branches they will have to provide proof before the Commission that it is posing a threat.

A-1 Asphalt

Agent Porter advised that when the project was submitted and sitting on the agenda for two year can be removed from the agenda unless the applicant has a valid reason for wanting to keep it on the records and spoke with Attorney Kreg Espinola, and he advised that it's still in litigation and the applicant is appealing a decision. Agent Porter advised Attorney Mr. Espinola that she would contact the applicant's and see if want to put in request for continuance because of the ongoing litigation because this Commission doesn't them to start an application over we want them to do the work.

4. Meeting Minutes of 4/4/17, 4/18/17, 8/22/17, 11/21/17, 12/5/17 and 12/19/17 for approval.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of April 4, 2017 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of April 18, 2017 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of August 22, 2017 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of November 21, 2017 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of December 5, 2017 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of December 19, 2017 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

ADJOURN

Commissioner Gonsalves made a motion to adjourn at approximately 7:55. Motion was seconded by Commissioner Perks. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas, Administrative Coordinator