



**Environmental Stewardship Department/
Conservation Commission**

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

**Meeting Minutes of the Conservation Meeting of
September 20, 2016
Room 314, City Hall**

Members Present

Craig Dixon, Vice Chairman
Dennis Audette
Paul Pacheco
Jacob Gonsalves

Members Absent

John Radcliffe, Chairman

Staff Present

Agent Sarah Porter
Sandy Douglas, Admin., Specialist

Vice Chairman Dixon called the meeting to order at 6:35 p.m.

NEW BUSINESS:

- 1. SE49-0521 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 126 Mate Drive (Map 130G, Lot 192).** Representative is Richard Rheume of Prime Engineering.

Agent Porter advised that Richard Rheume of Prime Engineering will not be present this evening.

Agent Porter also advised the Commission that this site is in full compliance and recommended the issuance of a full Certificate of Compliance with ongoing conditions #50 and #51.

Commissioner Pacheco made a motion to issue a full Certificate of Compliance as recommended by the Agent for SE 49-0521 with conditions as read. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

- 2. SE49-0522 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 134 Mate Drive (Map 130G, Lot 193).** Representative is Richard Rheume of Prime Engineering.

Agent Porter advised the Commission that this site is in full compliance with the Order and recommended the issuance of a full Certificate of Compliance with ongoing conditions #50 and #51.

Commissioner Gonsalves made a motion to issue a full Certificate of Compliance for SE49-0522 as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

- 3. SE49-0523 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 142 Mate Drive (Map 130 G, Lot 194).** Representative is Richard Rheume of Prime Engineering.

Agent Porter advised the Commission that this site is in full compliance with the Order and recommended the issuance of a full Certificate of Compliance with ongoing conditions #50 and #51.

Commissioner Pacheco made a motion to issue a full Certificate of Compliance for SE49-0523 as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

- 4. SE49-0524 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 150 Mate Drive (Map 130G, Lot 195).** Representative is Richard Rheume of Prime Engineering.

Agent Porter advised the Commission that this site is in full compliance with the Order and recommended the issuance of a full Certificate of Compliance with ongoing conditions #50 and #51.

Commissioner Audette made a motion to issue a full Certificate of Compliance for SE49-0524 as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

- 5. SE49-0525 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 158 Mate Drive (Map 130G, Lot 196).** Representative is Richard Rheume of Prime Engineering.

Agent Porter recommended the issuance of a full Certificate of Compliance with no ongoing conditions as this site is in full compliance.

Commissioner Audette made a motion to issue a full Certificate of Compliance for SE49-0525 as recommended by the Agent. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

- 6. SE49-0526 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 153 Mate Drive (Map 130G, Lots 198 & 208).** Representative is Richard Rheume of Prime Engineering.

Agent Porter recommended the issuance of a full Certificate of Compliance with ongoing conditions #50 and #51 as this site is in full compliance.

Commissioner Audette made a motion to issue a full Certificate of Compliance for SE49-0526 as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

- 7. SE49-0527 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 145 Mate Drive (Map 130G, Lots 199 & 209).** Representative is Richard Rheume of Prime Engineering.

Agent Porter recommended the issuance of a full Certificate of Compliance with ongoing conditions #50 & #51 as this site is in full compliance.

Commissioner Pacheco made a motion to issue a full Certificate of Compliance for SE49-0527 as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

8. SE49-0528 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 137 Mate Drive (Map 130G, Lots 200 & 210). Representative is Richard Rheume of Prime Engineering.

Agent Porter advised the Commission that this site is not in compliance because she found grass clippings in the no disturb zone at the time of inspection. Agent Porter is trying to determine who the new owners are and when she has that information she will send them a letter notifying them that they are to remove the grass clippings and dispose of it off site by October 21, 2016 and when the grass clippings have been removed to contact the Agent.

Commissioner Audette made a motion to table this matter to the next meeting so that the new owners may be contacted. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

9. Request for Determination of Applicability as filed by City of New Bedford Department of Parks, Recreation & Beaches for property identified as Brock Avenue and Freedom Boulevard (Map 006, Lot 1). Applicant requests to remove and/or cut wetland vegetation in Victory Pond. Representative is Mary Rapoza of Parks Recreation & Beaches. CONTINUED

10. 1551 Morton Avenue. Ratify Enforcement Order – owner invited to appear.

Mr. John Durant of 1551 Morton Avenue was present.

Agent Porter advised the Commission that she had been notified by Commissioner Dennis Audette of activity being performed along the edge of the pond. Agent Porter then went to the site and found that the concrete retaining wall that abuts Sassaquin pond was being rebuilt and the forms were up and some of the concrete that was deteriorated had been demolished. Agent Porter then spoke to Chairman Radcliffe and it was decided that the best thing to do was to have Mr. Durant finish the work under an Enforcement Order as soon as possible since forms were already up and pond water was low.

Agent Porter stated that the extent and type of activity consisted of removal of a deteriorated portion of the concrete retaining wall approximately 33' linear feet which acts as the Bank of Sassaquin Pond. The work being performed is the placement of forms to pour a new concrete wall and a stairway to the Beach and placement of the concrete rubble from the deteriorated wall onto the Sassaquin Pond Beach. The activity is being conducted without a valid Order of Conditions or negative Determination of Applicability.

Agent Porter recommended that the property owner shall complete the wall repair by pouring new concrete in between the existing concrete wall and the forms. The concrete rubble on the Beach shall be utilized as backfill and/or disposed of off-site in a legal upland location. The beach shall be cleaned and restored to its original condition and all work shall be done by hand and completed by September 17, 2016. The Agent advised that the work has been completed. When speaking with Commissioner Radcliffe the fee was discussed because this was an after-the-fact and was done without knowing he had to file an application.

Mr. Durant stated that he didn't realize that he needed a permit because he was just repairing an existing wall that was deteriorating. He had waited a couple of years to repair the wall hoping that the water level would go down and since it has he decided it was a good time to make the repairs. Mr. Durant stated that he's been living in Sassaquin Pond since 1961 and is a huge advocate for the pond and would never do anything to harm it.

Agent Porter advised the Commission that the fee would be \$16.50 for the linear feet repaired plus the \$150.00 administration fee for a total of \$166.50 and that amount could be multiplied by two for an after the fact violation for a total of \$333.00. The Commission agreed to waive the doubling of the fee and that Mr. Durant is to pay \$166.50 for an after the fact violation fee.

Commissioner Pacheco made a motion to ratify the Enforcement Order. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Commissioner Gonsalves made a motion that Mr. Durant is to pay an after-the-fact fee of \$166.50, as agreed. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

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) - 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) - 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**

OLD BUSINESS:

1. **SE49-267 (Continued from 9/6/16)- Request for Certificate of Compliance as filed by David Fredette, City of New Bedford DPI, for property identified as John Vertente Boulevard (East Side) (Map 135, Lot 2).** Representative is David Fredette. **CONTINUED**
2. **SE49-0517 (Continued from 9/6/16) - Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 94 Mate Drive (Map 130G, Lot 188/239).** Representative is Richard Rheaume of Prime Engineering. Owner has been requested to appear to address violations of the 25' No Disturb Zone/Conservation Area.

Mr. Gora the owner of the property was present.

Agent Porter advised the Commission that there was a letter sent to the homeowner outlining the violations and the Commission needs to make a decision as to how to proceed.

Commissioner Dixon stated that he would like to see everything pulled out of the no disturb zone, the fence restored to its original condition and the placard placed back on the fence. Mr. Gora stated that the split rail fence was falling apart and some of the pieces had fallen to the ground, Mr. Gora showed the Commission pictures of the fence's existing conditions. Mr. Gora advised that he and his wife had gone away for some time and upon their return home, his father had planted a garden in the no disturb zone. He has since explained to his father that he cannot do any activity in the no disturb area.

Mr. Gora will repair/replace the fence and remove everything out of the no disturb zone. Once all is done, he will then contact the Agent so she can conduct an onsite inspection.

Commissioner Gonsalves made a motion to table this matter. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

3. **SE49-0519 (Continued from 9/6/16) - Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 110 Mate Drive (Map 130G, Lot 190).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
4. **SE49-520 (Continued from 9/6/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 118 Mate Drive (Map 130G, Lot 191).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
5. **SE49-0533 (Continued from 9/6/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 29 Schooner Court (Map 130G, Lot 231).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
6. **SE49-0514 (Continued from 9/6/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 52 Mate Drive (Map 130G, Lot 236).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
7. **SE49-0515 (Continued from 9/6/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 60 Mate Drive (Map 130G, Lot 262).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**

CONTINUED NEW BUSINESS:

1. Agent Updates

OCTOBER 4, 2016 MEETING

Agent Porter advised the Commission that the October 4th meeting needs to be rescheduled because it is a Jewish Holiday. Agent Porter recommended continuing it to Wednesday, October 5th or Thursday, October 6th. The Commission agreed to continue the October 4th meeting to Thursday, October 6th. Commissioner Audette advised that he is not available on October 6th but Commissioners Dixon, Gonsalves and Pacheco will be present.

BUTTONWOOD PARK-FRIENDS OF BUTTONWOOD

Mr. Ray Castino, President of Friends of Buttonwood Park was present. Mr. Castino advised that last year they cleaned out the tree farm and found a very large stand of Japanese knotweed and since then it's continued to grow detrimentally. They are presently working with a landscape architect, environmental consultant and a company that specializes in vegetation control. That company has advised that this is the perfect time to control the Japanese knotweed by spraying herbicide into the roots. Mr. Castino showed the Commission on the map of where the Japanese knotweed is located. It is approximately 150' from the SW corner of the tree farm.

Commissioner Audette inquired as to what herbicide would be used. Mr. Castino replied it would most likely be rodeo. Mr. Castino added that the vendor is willing to donate their services to perform this work.

Agent Porter stated that the problem is they don't have an RDA and the work proposed is within the buffer zone.

Mr. Castino replied that not all of it is in the buffer zone but it's growing into the pond.

Commissioner Dixon inquired as to whether there were any longer term affects from using rodeo herbicide. Agent Porter stated she hasn't had time to research it. Mr. Castino replied that it's generally used in wetland application and the only other way would be to use heavy equipment and try to dig out the roots. Agent Porter stated that they would have to apply for a permit and see if it's in the window to do application and if it isn't, they will have to wait until next year at this time.

Commissioner Audette stated that one of the problems is if Mr. Castino is allowed to perform the work without a filing then others would expect the same treatment for other restoration projects.

Mr. Castino replied if an application needs to be filed, that they will do so and he is not looking to be put on a higher level than anyone else and whatever the commission recommends be done, they will do.

Commissioner Gonsalves inquired as to what type of equipment will be used in the future to place the trail and maybe it could all be done at the same time. Mr. Castino replied that the trails and boardwalks will be placed in the far future because they need to raise a lot of money and he is not sure what type of equipment will be used.

Mr. Castino inquired whether they could spray the portions that are not in the wetlands. Agent Porter replied that some of the wetland flags are missing and they would still be working in the 100' Buffer Zone. In addition, the City is planning on rebuilding the dam and work on the pond so may have to coordinate with that project as far as the trails.

Commissioner Audette inquired as to who would be performing the spraying. Mr. Castino replied that it would be the vendor, Groundscape a/k/a Eastern Landscape.

Commissioner Dixon stated that this looks like a straight forward project but an application will need to be filed. Agent Porter advised that the permits are good for three years and suggested a filing sooner rather than later.

Mr. Castino will contact Agent Porter when they are ready to file an application.

2. General Correspondence

Sassaquin Pond Emergency Certification: Agent Porter advised the Commission that David Fredette requested an Emergency Certification (EC) for Sassaquin Pond for two outfalls. One of the headwalls has completely collapsed and the other one has a cracked pipe and the headwall is crushed. DPI is looking to repair both under EC's. The Commission did not have an issue with the proposed work.

Mr. Fredette had also inquired about removing vegetation in Sassaquin Pond (Phragmites etc.). Agent Porter informed him he would need to file a Notice of Intent.

Victory Pond Agent Porter also reminded the Commission that Victory Pond has a filing for removal of vegetation and she conducted some research on the regulations and found that anything up to 5,000 s.f. is okay with the filing of a NOI and anything over 5,000 s.f. will require a Wildlife Habitat Assessment. The Commission needs to keep this in mind with respect to the upcoming filing of Victory Pond.

Commissioner Dixon inquired whether they had filed an application for Victory Pond yet. Agent Porter replied that they have filed an RDA but will need to file an NOI to do the proposed work. Commission agreed to discuss this matter further when it comes before them.

Chapter 91 permit Agent Porter advised that Chapter 91 permit has been filed for the dredging at Rodney French Boulevard Boat Ramp and Beach Nourishment. The Commission has issued an Order of Conditions for this activity.

3. Meeting Minutes of 3/15/16 for approval.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of March 15, 2016 was made by Commissioner Audette. Motion was seconded by Commission Pacheco. All in favor. Motion carries.

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

Respectfully submitted,

Sandy Douglas
Administrative Specialist