



**Environmental Stewardship Department/
Conservation Commission**

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

**Meeting Minutes of the Conservation Meeting of
November 1, 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

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

CONTINUED HEARINGS:

1. **SE49-0745 – (Continued from 10/18/16) - A Notice of Intent as filed by Paul Barton, New Bedford Regional Airport Manager for property identified as 1569 Airport Road (Map 123 - Lot 3, Map 122 - Lot 3, Map 124 - Lot 28 and Map 125 - Lot 22).** Applicant proposes to reconstruct and expand the terminal apron area with associated storm water management improvements and replace an existing culvert. A portion of this work is proposed in the Buffer Zone and within a Bordering Vegetated Wetland. Representative is Amanda Atwell of Epsilon Associates, Inc. **CONTINUED**
2. **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) - 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**
3. **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) - 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. SE49-0509 – (Continued from 10/18/16) 157 Tarkiln Place (Map 130G, Lot 216) Owner requested to appear to address movement of split rail fence.

Mr. Mario Xavier of 157 Tarkiln Place, New Bedford was present.

Agent Porter advised the Commission that she met with Mr. Xavier at the property and taped off the distance of the encroachment and it is 16' into the no disturb zone but the shed is only 8' into it. Mr. Xavier was wondering if he could pay a fine instead of putting the fence back. Agent Porter consulted with the solicitor's office with regard to whether or not Mr. Xavier could pay a fine in lieu of restoration and Atty. Friedman advised that he could pay a fine and restore the area but not in lieu of restoration.

Agent Porter inquired as to how the Commission would like to proceed with this matter. Attorney Friedman suggested that the split rail be placed back to its original location or file a Notice of Intent. Agent Porter advised that there is no place in the backyard that the shed could be moved to.

Commissioner Gonsalves inquired if there was any benefit to the filing of a Notice of Intent. Agent Porter replied that Mr. Xavier would have to convince the commission that he could encroach into the no disturb zone.

Commissioner Dixon doesn't feel it is necessary to file a notice of intent and that a compromise can be reached with regard to the shed.

Commissioner Pacheco inquired whether Mr. Xavier signed an acknowledgment upon the purchase of this property. Agent Porter replied that he did sign one.

Commissioner Dixon recommended that Mr. Xavier put the split rail fence or stockade fence back to its original place and place the placard on the fence. As far as the shed, since there is no other place for the shed to go in the back yard to just leave it where it is now. Agent Porter inquired whether the Commission wants her to approve the shed through the building department. Commissioner Dixon replied that she can approve said shed.

The Commission agreed to give Mr. Xavier thirty days to correct this.

Mr. Xavier advised that he did clean up the grass clippings.

2. SE49-0534 – (Continued from 10/6/16, 10/18/16) - 21 Schooner Court. Continued until owner is in compliance.

Agent Porter advised that she sent the Owner of 21 Schooner Court a letter. The Commission agreed with the letter that was sent to the owner and are hoping that she responds with a proposed resolution. If the Owner does not respond, she will have to be served with a violation. Agent Porter advised that the owner has moved the flower pot and has not doing anything else.

Commissioner Audette made a motion to continue to the next hearing. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

3. SE49-0528 – (Continued from 9/20/16, 10/6/16, 10/18/16) - 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. Owner has until 11/18/16 to address non compliance in the 25' No Disturb Zone.

Agent Porter advised the Commission that the owner has until November 18, 2016 to address the grass clippings that are in the no disturb zone.

4. **SE49-267 (Continued from 9/6/16, 9/20/16, 10/6/16, 10/18/16)- 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

5. **SE49-0517 (Continued from 9/6/16, 9/20/16, 10/6/16, 10/18/16) - 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 Rheume of Prime Engineering. Update from the Agent on non compliance with the 25' no disturb zone.

Agent Porter advised that she visited the site and the owner has removed the garden and toys out of the no disturb zone and has replaced the split rail fence and has placed the sign up.

Agent Porter recommended the issuance of a Certificate of Compliance with ongoing conditions 50 and 51.

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

6. **SE49-0519 (Continued from 9/6/16, 9/20/16, 10/6/16, 10/18/16) - 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. Update on sign installation. **CONTINUED**

7. **SE49-520 (Continued from 9/6/16, 9/20/16, 10/6/16, 10/18/16) 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. Update on sign installation. **CONTINUED**

8. **SE49-0533 (Continued from 9/6/16, 9/20/16, 10/6/16, 10/18/16) 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. Update on non compliance in 25' No Disturb Zone.

Agent Porter recommended the issuance of a full Certificate of Compliance with ongoing conditions 50 and 51.

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

9. **SE49-0514 (Continued from 9/6/16, 9/20/16, 10/6/16, 10/18/16) 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. Update on sign installation. **CONTINUED**

10. **SE49-0515 (Continued from 9/6/16, 9/20/16, 10/6/16, 10/18/16) 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. Update on sign installation. **CONTINUED**

NEW BUSINESS:

1. Agent updates

SHAWMUT AVENUE- A1 Asphalt

A-1 has an application before the zoning board of appeals and the matter has been continued various times and Con Com has wait until the ZBA make a decision in order to proceed.

200 DUCHAINE BOULEVARD

Agent Porter advised that Health and Human Service was given a 90 day temporary Certificate of Occupancy in the summer and it's about to expire, They are now requesting a sign off on the CO but the storm water management is not complete. Health and Human Services has been utilizing a portion of the existing parking lot. Agent Porter inquired as to whether or not the Commission agrees to her signing off on said CO.

Agent Porter also stated that the Department of Motor Vehicles (DMV) will also be requesting a CO when they are ready and the Commission could decided to hold off until they are in compliance with their stormwater management controls.

Commissioner Dixon stated that if Health and Human Services is given a sign off then DMV will expect the same courtesy.

Agent Porter advised that there are two options,: 1) not signing off on this at all because did not know there was a temporary CO and they are presently utilizing the existing parking facilities; and 2) issue a sign off to Health and Human Services and not issue one to DMV until the storm water is in full compliance.

Agent Porter advised that Mr. Riccio stated that it will take them another week to place jute mesh down. Agent Porter recommended waiting until this is complete before making a decision on whether or not to sign off on CO.

This commission decided to wait until the jute mesh is down before making any decision.

ENGINEER PROPOSALS

Agent Porter advised that the engineering proposals have been received from Apex Companies, Nitsch Engineering and Beals and Thomas. Agent Porter has reviewed said proposals.

Apex Companies is located at 1213 Purchase Street. Apex does primarily waterways work and has done a lot of work at the South Terminal. John McAllister who would be program director if awarded did storm water reviews but did them while he worked at different company prior to 2013. Apex did submit a storm

water design and report for the radio tower on 140, the construction oversight was too brief in comparison to what Nitsch provides. They did not give sample peer review for DEP storm water management regulations but gave one on for a local storm management bylaw so don't know how they would make out with DEP storm water standards on a peer review. Beals and Thomas submitted a project outline that included utilizing professional wetland scientist which we did not ask for if contracted with them would have to specify that we do not want to pay for wetland scientist in that contract. The engineer review submitted to con com did not zero in on DEP stormwater standards but instead focused on other stormwater engineering discrepancies and the construction monitoring would be done by someone with 6 years of experience and the same with the soil evaluator. With Nitsch The Commission gets Scot Turner who has performed peer review work for the City for 15 years and has 24 years engineering experience or Jennifer Johnson with 10 years exp who works in combination with Scott and he approves her memos

Agent Porter added that she feels Nitsch Engineering's review goes above and beyond with inspecting the quality of detention ponds. They don't waste time on trivial matters and always conduct site inspections which are important rates may be higher than Beals and Thomas but it might be worth it.

Commissioner Pacheco inquired as to how many years Nitsch Engineering has been working with the City. Agent Porter replied that they have doing peer review work for the past 15 years and there have never been any problems and they always stick to the storm water standards.

Commissioner Audette added that he likes all the detail that Nitsch Engineering submits.

The Commission all agreed that they continue their contract with Nitsch Engineering.

SOUTH TERMINAL a/k/a WIND TERMINAL

Agent Porter advised that she contacted John McAllister at Apex when she saw that the scrap metal facility was going in and needed to know whether or not it applies to the wetland protection act. Mr. McAllister advised that he has contacted DEP to confirm as to what their interpretation of the act was but they believe that the terminal and its subsequent operational uses are permitted under the U.S. EPA's final determination for the south terminal project and especially under the applicable rules and regulations ARAR. ARAR is the process that requires compliance with standard associated with other environmental regulations in this case the wetlands protection act.

Agent Porter is thinking of contacting EPA directly to inquire whether they feel the land uses are under ARAR.

The Commission agreed that Agent Porter speak with EPA with regard to the designation of ARAR and obtain some more information on MSGP and then advise the Commission.

2. General Correspondence

Meeting Minutes of May 17, 2016, June 7, 2016, June 21, 2016 and July 5, 2016 for approval.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of May 17, 2016 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of June 7, 2016 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of June 21, 2016 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of July 5, 2016 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Commissioner Gonsalves made a motion to adjourn at approximately 7:35. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist