



MAYOR
JON MITCHELL

**City of New Bedford Conservation Commission •
Department of Environmental Stewardship**

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Conservation • Environmental Stewardship • Resilience

**Meeting Minutes of the Conservation Meeting of
August 18, 2020
REMOTE PUBLIC HEARING VIA ZOOM**

Members Absent

Staff Present

Sarah Porter, Conservation Agent

Sandy Douglas, Administrative Coordinator

**Chairman Audette read Conservation Commission Remote Open Meeting
Procedures as follows:**

This is Conservation Commission Chairman Dennis Audette speaking and opening the remote Conservation Commission meeting of August 18, 2020 at 6:30 PM.

Please permit me to confirm that all members and persons anticipated on the agenda are present and can hear me:

Conservation Commission members when I call your name please respond in the affirmative: Vice Chairman Paul Pacheco-Present, Commissioner Peter Blanchard-Present.

Conservation Commission staff please respond in the affirmative: Conservation Agent Sarah Porter-Present, Administrative Coordinator Sandy Douglas-Present.

Anticipated speakers on the Agenda please respond in the affirmative: if you have other members of your team in attendance, please introduce them.

Allen Decker – Acushnet Sawmill Gateway-Mill Road – PRESENT

Michael Stiller – 310 Hathaway Boulevard – NOT PRESENT BUT TOM KEOUGH, ROBERT COWELL AND COLLIN CALLAHAN WERE ALL PRESENT

Rich Riccio- 1078 June Street- PRESENT

Nick Dufresne – Farland Corp., - 68 Gisele's Way Notice of Intent – PRESENT



This Open meeting of the Conservation Commission is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus.

The Order allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will feature public comment.

Meeting Materials: All supporting materials have been provided to members of this body and are available on the City website unless otherwise noted. The public is encouraged to follow along using the posted agenda.

Meeting Ground Rules

Before turning to the first item on the agenda, I will review the ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes:

I will introduce each speaker on the agenda. After they conclude their remarks, I will go down the list of Commissioners, inviting each by name to provide any comment, questions or motions. Please hold until your name is called. Further,

- Please mute your phone or computer when you are not speaking
- Please remember to speak clearly and in a way that helps generate accurate meeting minutes.

For any response, please wait until the Chair yields the floor to you and state your name before speaking.

If Commissioners wish to engage in colloquy with other members, please do so through the Chair, taking care to identify yourself.

After Commissioners have spoken, I will afford public comments as follows:

- I will first ask whether there are any written public comments submitted via email and whether such comments were distributed to the commission prior to the meeting. If time has not allowed for the email comments to be reviewed by the commission prior to the meeting, I will ask that those comments be read aloud by the Conservation Agent.
- I will first ask members of the public who wish to speak to identify with their names and addresses
- Once I have a list of all public commenters, I will call on each by name and afford 3 minutes for any comments.

Finally, each vote taken in this meeting will be conducted by roll call vote.



AGENDA

OLD BUSINESS:

1. **SE49-0658** – (Continued from 7/7/20, 7/21/20, 8/3/20) – Request for a Certificate of Compliance as filed by Carlos Pena of Foth Infrastructure & Environment, LLC for property identified as 1 Cape Street, New Bedford, (Map 42, Lot 260). Representative is Carlos Pena. **Continued until September 15, 2020**

NEW BUSINESS:

1. **Conservation Restriction (Acushnet Sawmill Gateway – West side of Mill Rd).** Commission to consider holding a Conservation Restriction on this 1.6-acre open space parcel which is owned by the Buzzards Bay Coalition. Representative is Allen Decker of the Buzzards Bay Coalition.

Mr. Allen Decker of Buzzards Bay Coalition advised that this property is 1.6 acres and is across the street from the Sawmill Reserve. They had a site visit with Agent Porter last week and answered any questions that she had at the time. They are proposing to improve ability to handle the capacity of visitors to the property by adding 5-6 parking spots for a total of 20 vehicles. They are also proposing to incorporate a community garden to the property to include berry bushes and fruit trees that will be planted later this Fall. They have built a stonewall to match the one across the street and will be installing water service to keep plants healthy. This property will be publicly accessible. Mr. Decker requested that the Commission accept this partnership on this project and vote to hold the Conservation Restriction pending finalization from Solicitor's office and EEA. They have until the end of September to complete this project.

Commissioner Blanchard inquired as to how the community would partake in the fruit trees. Mr. Decker replied that the trees and bushes will be there and when they are fruiting, they will be available to the community for picking.

No comments were heard in favor or in opposition of this project.

Agent Porter advised that she has been out to the site and the site is open space with an existing gravel parking lot which they would like to expand by a few spaces. A good part of the area is forested with invasive trees. Agent Porter feels that this is a good venture for the Conservation Commission to combine resources and enter a Conservation Restriction with the Buzzard's Bay Coalition.

Commissioner Blanchard made a motion to accept the Conservation Restriction. Motion was seconded by Vice-Chairman Pacheco. All in favor. Motion carries.



Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.

Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

2. Request for a Certificate of Compliance as filed by Phillips Road North, LLC for property identified as Phillips Road (Map 136, Lot 468).

Agent Porter advised that this site was never developed, and the Order of Conditions has expired. Agent Porter recommended the issuance of an invalid Order of Conditions that the work regulated by the above-referenced Order of Conditions never commenced. The Order of Conditions has lapsed and is therefore no longer valid. No future work subject to regulation under the Wetlands Protection Act may commence without filing a new Notice of Intent and receiving a new Order of Conditions.

Vice-Chairman Pacheco made a motion to for an invalid Order of Conditions. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.

Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

3. A Request for Determination of Applicability as filed by Muhammad Chowdhury of Mass. Dept. of Conservation & Recreation for property identified as 310 Hathaway Boulevard – Hetland Skating Rink (Map 75 Lot 8A). Applicant requests a determination as to whether the wetlands on site and the proposed remediation activities are subject to regulation under the MA Wetlands Protection Act or the City of New Bedford Wetlands Ordinance. Representative is Michael Stiller of AECOM.

Mr. Michael Stiller of AECOM spoke on behalf of the applicant. Mr. Stiller advised that the Hetland Skating Rink is part of the Parker Street Waste Site, the City has been undergoing a lot of work in this area to address contamination from former Parker Street Waste Site. The site is 4.7 acres and proposing to excavate appx. 4,000 cubic yards of contaminated soil in the vicinity of building, grass and paved areas. A very small piece of the limits of work are located 85' from the wetland resource area which is Isolated Land Subject to Flooding. Overall, they will be removing contaminated soil and replacing it with clean soil, replacing existing pavement and grass areas. Other component of project is to replace utilities to the building with new utilities thereby creating clean utility soil trenches. There will be contaminated soils left at depth when



done consistent with Parker Street Waste Site. They are capping the existing contamination and eliminating the direct contact for human exposure.

Vice-Chairman Pacheco inquired as to how old the building is. Mr. Stiller replied that it was built in 1970s.

Chairman Audette inquired as to where they will store the contaminated soils. Mr. Stiller replied that a lot of it has been pre-characterized and he hopes that the contractor will excavate it and put it right into the trucks so there isn't a lot of stockpiling. However, there maybe be some stockpiling required and it will be within the limits of work and limits of excavation so as not to cross-contaminate clean areas. Some of the soils may need to be treated and will be treated in roll off containers and shipped off site.

Chairman Audette inquired if this area will be fenced off because of the school. Mr. Stiller advised that it will always be fenced off to keep public safe and away from the work.

Chairman Audette inquired if they anticipate hitting any groundwater. Mr. Stiller replied that excavation is only 5' at the deepest and doesn't anticipate it.

Chairman Audette inquired if test pits have been done. Mr. Stiller replied that there have been test pits done.

Chairman Audette is concerned that there is no direct plan as to whether they will be treated there or hauled off. Mr. Stiller replied that there is a direct plan but does not have the exact quantity and have isolated the higher lead to the NW corner of the parcel, borings were done 40-50' apart and will have field person there taking samples to define that limit.

Mr. Tom Keough added that the additional borings, testing and stockpiling are over 200' away from edge of the isolated land subject to flooding. A lot of these activities are on the opposite side of the building and parking lot from the wetland.

Commissioner Blanchard inquired if stockpile is needed would it be in the parking lot. Mr. Stiller replied that it would be within the limits of work.

No comments were heard in favor or in opposition of this project.

Agent Porter stated that the wetland on site is an Isolated land Subject to Flooding and does not have a 100' buffer zone associated with it so work as proposed is outside jurisdiction of the Conservation Commission. Agent Porter did review the flags that she could find to determine that it was in fact Isolated Land Subject to Flooding and not BVW.

Agent Porter recommended the issuance of a negative determination that the work described in the request is not within an area subject to protection under the Act including the Buffer Zone. Therefore, said work does not require the filing of a Notice of Intent unless and until said work alters an area subject to protection under the Act. The Plans for approval are Demolition and



Site Preparation Plan dated 11/18/2019, Remedial Excavation Plan, Utility Replacement Plan and Site Restoration all dated 04/20/2020.

Commissioner Blanchard made a motion to issue a negative determination as recommended by the Agent. Motion was seconded by Vice-Chairman Pacheco. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.

Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

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, 9/20/16, 10/6/16, 10/18/16, 11/1/16, 11/15/16, 12/20/16, 12/27/16, 1/17/17, 2/7/17, 2/21/17, 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17, 7/18/17, 8/8/17, 8/22/17, 9/5/17, 9/19/17, 10/3/17, 10/17/17, 11/7/17, 11/21/17, 12/5/17, 12/19/17, 1/2/18, 1/16/18, 2/6/18, 2/20/18, 3/6/18, 3/20/18, 4/3/18, 4/17/18, 5/1/18, 5/15/18, 6/5/18, 6/19/18, 7/3/18, 7/17/18, 8/7/18, 8/21/18, 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 1/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19, 10/15/19, 11/5/19, 11/19/19, 12/3/19, 12/17/19, 1/7/20, 1/21/20, 2/4/20, 2/18/20, 3/10/20, 3/24/20, 6/16/20, 7/7/20, 7/21/20, 8/3/20) - 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 Attorney Thomas Crotty. **Continued until September 15, 2020.**
2. **SE49-0810** – (Continued from 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 11/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19, 10/15/19, 11/5/19, 11/19/19, 12/3/19, 12/17/19, 1/7/20, 1/21/20, 2/4/20, 2/18/20, 3/10/20, 3/24/20, 6/16/20, 7/7/20, 7/21/20, 8/3/20) - A Notice of Intent as filed by Norman Nichols for property identified as a 50' wide easement through Map 130A, Lot 720. Applicant proposes a stream crossing for a 20' wide paved drive which shall alter Bordering Vegetated Wetland, Bank and Land Under a Waterway. Representative is Richard Rheume of Prime Engineering.

Agent Porter advised that Prime Engineering has requested a continuance until September 1, 2020.

Vice-Chairman Pacheco made a motion to continue until September 1, 2020. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.



Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.

Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

3. **SE49-0852** - (Continued from 6/16/20, 7/7/20, 7/21/20, 8/3/20) - Notice of Intent as filed by Marc Wilson for property identified as 1078 June St., New Bedford (Map 136A, Lot 718). Applicant proposes an addition to an existing house and a paved driveway in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Peter DeFusco.

Mr. Rich Riccio of Field Engineering spoke on behalf of the applicant. Mr. Riccio advised that they have been working with Nitsch Engineering and received letter from them yesterday and have responded but Jen from Nitsch Engineering is on vacation this week and was not able to get a response from Nitsch before this evening's meeting and therefore, requested a continuance.

No comments were heard in favor or in opposition of this project.

Commissioner Blanchard made a motion to continue to September 1, 2020. Motion was seconded by Vice-Chairman Pacheco. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.

Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

4. **SE49-0854** - (Continued from 7/21/20, 8/3/20) - A Notice of Intent as filed by Stacy Oliveira for property identified as 68 Gisele's Way, New Bedford (Map 134 – Lot 314). Applicant proposes to install municipal water and sewer services to an existing dwelling. The water and sewer services shall extend from Acushnet Avenue 695' westerly on Gisele's Way, a portion of which falls within the 100' Buffer Zone to Bordering Vegetated Wetland. Representative is Nick Dufresne of Farland Corp.

Mr. Nick Dufresne of Farland Corp. spoke on behalf of the applicant. Mr. Dufresne advised that at the last meeting Agent Porter had not had an opportunity to check the flags on the property and has since then been to the property.

Agent Porter advised that she had asked them to look at a ditch for jurisdiction under the Wetland's Protection Act and they had Brandon Faneuf of EcoSystems Solution look into the



Agent's request. He wrote a letter which Agent Porter read aloud, and he determined that it is not a functional stream and has no value other than to drain water away from the driveway and did not recommend classifying this area as a wetland resource area. Agent Porter agrees with Mr. Faneuf's determination and is in concurrence with wetland's as delineated on the plan that was submitted with the revised plan.

Agent Porter recommended the issuance of an Order of Conditions with the following Special Conditions: that an as-built plan of the grading and utilities is to be submitted to the Conservation Commission upon completion of construction, and an on-site with the Agent for inspection of the erosion controls prior to any other construction commencing. The Plan for approval is Site Plan 68 Gisele's Way (Assessors Map 134, Lot 314 New Bedford, MA). Revised dated 7/28/2020.

No further comments were heard in favor or in opposition.

Vice-Chairman Pacheco made a motion to issue a Notice of Intent. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.

Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

NEW HEARINGS:

None.

NEW BUSINESS CONTINUED:

1. Agent Updates/General Correspondence

DAVY'S LOCKER

Agent Porter advised that she contacted DEP. She also went to the site after the storm two weeks ago and neither the fence nor stockpiles had been moved in the storm. DEP felt that because there isn't a special condition for not stockpiling within the V- Zone and the fence didn't move during the storm we don't have much of case for enforcement against them.

1. Approval of August 4, 2020 Meeting Minutes

Vice-Chairman Pacheco made a motion to approve the August 4, 2020 Meeting Minutes. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Roll Call Vote:



Vice-Chairman Paul Pacheco- Vote in favor.
Chairman Peter Blanchard- Vote in favor
Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

ADJOURN

Vice-Chairman Pacheco made a motion to adjourn at approximately 7:09. Motion was seconded by Commissioner Blanchard.

Vice-Chairman Paul Pacheco-Yes
Peter Blanchard – Yes
Chairman Dennis Audette – Yes

Respectfully submitted,

Sandy Douglas, Administrative Coordinator

