



**MAYOR**  
JON MITCHELL

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

133 William Street • Room 304 • New Bedford, Massachusetts 02740

Telephone: (508) 991.6188

**Conservation • Environmental Stewardship • Resilience**

**Meeting Minutes of the Conservation Meeting of  
March 2, 2021  
REMOTE PUBLIC HEARING VIA ZOOM**

**Members Absent**

**Staff Present**

Bruce Hebbel, Acting Conservation Agent  
Chancery Perks, Conservation Agent  
Sandy Douglas, Administrative  
Coordinator

**CALL MEETING TO ORDER**

**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 February 16, 2021, 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: Acting Conservation Agent  
Bruce Hebbel-Present, Conservation Commission Agent Chancery Perks, Administrative  
Coordinator Sandy Douglas-Present.

Anticipated speakers on the Agenda please respond in the affirmative:

**Susan Nilson of Foth Infrastructure & Environment, LLC for Pier 3-52, Fisherman's Wharf**

**Leslie Fields and Elise Leduc of Woods Hole Group for 700 & 740 Belleville Avenue**

**Richard Fitzgerald of AGM Marine for 178 Front Street**



133 William Street-Room 304, New Bedford, MA 02740 - Telephone 508-991-6188

## **Marilyn Wade of Brown & Caldwell for 700 & 740 Belleville Avenue**

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.**

## **CHAIRMAN AUDETTE CALLED MEETING TO ORDER**



## **ROLL CALL OF COMMISSIONERS**

### **General Procedures for Meeting**

## **NEW BUSINESS:**

1. **A Request for Determination of Applicability as filed by Blair Bailey of New Bedford Port Authority for property identified as Pier 3-52, Fisherman's Wharf, (Map 53, Lot 120).** The applicant is requesting a change in use for the existing shed (13'x16' +/-) to a supporting DPA use "Clam Shack". No construction is being proposed. Representative is Susan Nilson of Foth Infrastructure & Environment, LLC.

Ms. Susan Nilson of Foth Infrastructure was present on behalf of the applicant and advised that they are proposing no construction at the existing 13'x16' shed under this application. This request is being made under the Chapter 91 License process that requires the applicant to come before the Commission because of Land Under Ocean and Land Subject to Coastal Storm Flowage and they are not proposing any changes, it's merely a change in use.

There were no comments in favor or in opposition of said project.

Agent Hebbel advised that they are not proposing any changes and it's a procedural formality that needs to be done per Chapter 91. Agent Hebbel recommended the issuance of positive determination on Box 5 and negative determination on Box 2 with no special conditions required under this RDA.

Vice-Chairman Blanchard made a motion to issue a negative determination on Box 2 and a positive determination on Box 5. Motion was seconded by Commissioner Pacheco.

Roll Call Vote:

Commissioner Paul Pacheco- Vote in favor.

Vice-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, 8/18/20, 9/1/20, 9/15/20, 10/6/20, 11/3/20, 11/17/20, 12/1/20, 12/15/20, 1/5/21, 1/19/21, 2/16/21) - 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 Tom Crotty, Esquire.

Agent Hebbel advised that an Enforcement Order was issued at the last meeting and this is another procedural matter and when all the work is complete, they will come before the Commission to request a Certificate of Compliance.

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

Vice-Chairman Blanchard made a motion to continue to March 16, 2021. Motion was seconded by Commissioner Pacheco.

Roll Call Vote:

Commissioner Paul Pacheco- Vote in favor.

Vice-Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries

2. **SE49-0862 - (Continued from 1/5/21, 1/19/21, 2/16/21) - A Notice of Intent as filed by Evan Slavitt of AVX Corporation for property identified as 700 & 740 Belleville Avenue (Map 12, Lots 88 & 252)**. As a result of the Phase IV Remediation Action Plan, this project involves the completion of all remediation activities for the four OU's (OU1, OU2, OU3 & OU4) associated with the disposal site. The activities are located in the Riverfront Area and Storm Flowage, Coastal Resource Area, Land Under the Ocean, Coastal Banks, Salt Marshes, Land Containing Shellfish and Land Subject to Coastal Storm Flowage. Representative is Marilyn Wade of Brown and Caldwell.

Ms. Marilyn Wade of Brown and Caldwell was present on behalf of the applicant and advised that this application was continued from December 16 and the proposed project is to conduct waste site clean-up under the Mass Contingency Plan, there was a third party review conducted by Woods Hole Group. They have had a site visit at the end of January and have sent revisions and corrected plans as requested to Woods Hole Group.

Agent Hebbel added that there have been discussions with EPA with regard to the status of the NOI but have not received any public comment or email.

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



Agent Hebbel advised that they have received final review from Woods Hole Group on behalf of the Commission and Leslie Fields of Woods Hole Group is present this evening and they have submitted a final version.

Leslie Fields of Woods Hole Group added that have reviewed the NOI and did do a site visit and made some suggestions to the wetland delineation and those have been revised. There was series of questions that were reviewed with Brown & Caldwell and they have addressed all those questions. There are only two things in the MEPA certificate that was issued before NOI was filed. One comment was that the Commission request an invasive species management plan be provided by Brown and Caldwell and the second comments was from Coastal Zone Management (“CZM”) expressed some concerns that the proposed project did not take more proactive measure of storm impacts. That is a question that Commission may want to address with Brown and Caldwell.

Elise Leduc of Woods Hole Group was also present and added that they carefully went through application for consistency with the Wetlands Protection Act and Brown and Caldwell did bring the application in compliance with the Wetland’s Protection Act.

Chairman Audette stated that he usually gets a letter back with their final comments and have not received that yet from Brown and Caldwell and there have been two concerns that have been brought up. Ms. Fields stated that the invasive species management plan can be produced prior to construction and the other expression of concern from CZM was to minimize flooding and suggested that Brown and Caldwell address this issue.

Ms. Wade stated that their comments were submitted to Woods Hole Group prior to the MEPA finding and in terms of the invasive species monitoring and maintenance plan they would be amendable to have it included in the Order of Conditions and that they had planned to do that anyway and will hire a restoration contractor and she does not have an issue with the climate change. Resilience of the remedy itself is actually not in the Mass Contingency Plan to do that yet but the regulations are in process of being revised and because they knew it would be required they did include it in their reporting an evaluation of climate change and resilience for this site and doubled the size of the stormwater system out there. In addition, the long-term plan for the complete remediation project, does include site management plan which requires that all regulators will reevaluate the resiliency of the remedy periodically. CZM had asked about elevating the consolidation zone in order to get it out of floodplain elevation and they did look the feasibility of doing that outside of the 100’ buffer but for a number of reasons including preference of City of New Bedford, it elected to consolidated the soils within the building foundation.

Agent Hebbel added that as far as the invasive species plan it’s standard and that would not be included until the tail end of this project. Agent Hebbel stated that the work currently under this NOI is for the entire Aerovox site and the adjacent Titleist land is under the MA EPA. This would be for a partial approval of the work and not for the entire scope of the work, it is for the work prominently on the Aerovox main property and not to include work on the Titleist property until receive EPA approval. This partial Order of Conditions is for everything within the 100’ buffer zone and restoration work.



Motion to approve work that is currently approved by DEP for aerovox property and everything proposed on Titleist property has not been approved by DEP at this point. Caldwell in terms of the MA DEP approval its partial approved primarily on aerovox property split into two titled requires additional amendment from EPA and other thing was to adopted site management plan that requires periodic review of the remedy performance specifics of that require additional discussion prior to getting approval was told by MADEP that will have approval no later than may of this year.

Ms. Leduc suggested adding a special condition that no work is to be done on the Titleist property until approval is received and this way do not have to file an amendment.

Commissioner Pacheco made a motion to issue a partial Order of Conditions to conduct the work on the Aerovox property. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

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

All in favor. Motion carries

Commissioner Pacheco made a motion to add a special condition that once receive approval from EPA can move onto work on Titleist property

Roll Call Vote:

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

All in favor. Motion carries

3. **SE49-0864** - (Continued from 2/16/21) - Notice of Intent as filed by Amandio & Jose Araujo for property identified as 1265 Bartlett Street, (Map 134, Lots 299 & 305). The applicants propose construction of a roadway within a wetland. The applicant is Christopher Gilbert of Farland Corp.

Agent Hebbel advised that this application was forwarded to Nitsch Engeering for peer review and are waiting for comments from Farland in response to Nitsch's correspondence.

Vice-Chairman Blanchard made a motion to continue to March 16, 2021. Motion was seconded by Commissioner Pacheco.

Roll Call Vote:



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

All in favor. Motion carries

4. **SE49-0865** - (Continued from 2/6/21) - A Notice of Intent as filed by Joseph Swift of Crystal Ice Co., Inc., for property identified as 155, 178 Front Street, (Map 53, Lots 116-119, 241). The applicant proposes to repair/replace portions of the timber wharf structure which are moderately to severely damaged due to vessel impact and timber deterioration. Representative is Richard Fitzgerald of AGM Marine.

Mr. Fitzgerald was present on behalf of the applicant.

Agent Hebbel advised that they are waiting for response from DEP Waterways.

Vice-Chairman Blanchard made a motion to continue to March 16, 2021. Motion was seconded by Commissioner Pacheco.

Roll Call Vote:

Commissioner Paul Pacheco- Vote in favor.  
Vice-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**

#### **MBTA APPEAL**

Agent Hebbel advised have received decision in favor of the Commission and Keolis and MBTA have refiled and currently working its way through the legal process.

### **2. Approval of February 16, 2021 Meeting Minutes**

Commissioner Pacheco made a motion to approve the Meeting Minutes of February 16, 2021. Motion was seconded by Vice-Chairman Blanchard.



Roll Call Vote:

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

## **ADJOURN**

Vice-Chairman Blanchard made a motion to adjourn at approximately 7:20. Motion was seconded by Commissioner Pacheco.

Roll Call Vote:

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

All in favor. Motion carries

Respectfully submitted,

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Sandy Douglas, Administrative Coordinator

