

**City of Boston Conservation Commission
Public Meeting Minutes**

Boston City Hall, Hearing Room 801
Boston, Massachusetts, 02201

July 13, 2011

Commissioners Present: Charles Button - Chairman, Vivien Li, John Sullivan, Stephen Kunian, Aldo Ghirin, Jeanne McHallam

Commissioners Not Present: Antonia Pollak, John Lewis

Staff Present: Chris Busch, Executive Director

**6:20 PM Notice of Intent from Boston Harbor Industrial Development LLC, for the installation of sheet piling and a rock revetment, construction of two pile supported pedestrian piers, a wind turbine, roadway and stormwater management system improvements, landscaping and Harborwalk, Pappas Way, South Boston, Reserved Channel (Land Under Ocean, Coastal Bank, Coastal Beach, Land Subject to Tidal Action, 100-foot Buffer Zone).
*Continued from the April 20, 2011, Public Hearing***

Owner: Massachusetts Port Authority

Representatives: Tim Pappas, Pappas Enterprises; Less Smith, Epsilon Assoc.; Brendan

Campbell, Jay Cashman, Inc., John Bologna, CEC; Mike Ludwig, Ocean Coastal Consultants

Documents: Project plans and details as provided in the project Notice of Intent.

V. Li – For the record Epsilon, Jay Cashman Inc., and the Massachusetts Port Authority are dues paying members of my employer The Boston Harbor Association.

C. Button – Any initial staff comments?

C. Busch – This matter has been continued since February of this year. There have been three primary issues that have lead to the continuances: the water and sewer infrastructure and the extent of changes; the landside public amenities; and the rock revetment and the extent that will impact intertidal and subtidal habitat. An update on the overall project is needed.

T. Pappas – Pappas enterprises is the lessee of the property. The project on its whole is an infrastructure improvement project to repair an existing seawall. There are also no real sidewalks or a delineated road, so the project will provide established lanes, parking and walkways. With the seawall we had considered in-kind replacement of the seawall, however, the soils behind the wall make any tie backing of the wall impossible. The rock revetment is the only lasting and feasible alternative. Furthermore, since the Summer Street bridge is fixed so no large ships can access the back of the Channel, so a straight sheeting seawall is not needed for vessels. Also, wanted to delineate walkways and places for people to sit and additional amenities such as lighting, signage and landscaping. We also have developed a water and sewer plan that anticipates future development and includes an outfall to capture future needed capacity. Plan includes sustainable measures such as a wind turbine and a water quality swale and water quality unit. The wind turbine is a gesture towards the sustainability effort and will serve to guide a sustainability theme for overall development in the area.

J. Bologna – We have tried to do many things since the last meeting: have an 8' foot wide harborwalk; tried to look at stormwater drainage for the whole area. We do not have a design plan, but understand that we will have to come back with a plan. Also, have discussed with Mr. Busch mitigation in the East Boston area of the City.

B. Campbell – Discussed overall drainage plan, site plan and traffic plan for area.

L. Smith – Reviewed coastal wetland regulations and performance standards. Best available measures is the standard to be met with Land Under Ocean and the revetment option is the most appropriate measure for wall stabilization. The wall will not encroach any more than necessary out into intertidal area. The Coastal Beach is composed of artificial fill. Area is an artificial beach and does not provide sand or silt to adjacent areas of beach.

M. Ludwig – I was invited in to take a look at the overall impacts on habitat. Many estuarine species depend upon hard substrate rather than vegetated or sand and silt habitats. The design of the revetment will create more habitat than is present at the site. In particular area of impact the rock will provide areas of attachment for barnacles and other species which will attract anadromous fish species. The area currently has much filled material and asphalt.

The asphalt can bleed petroleum product back into the waterway in the presence of sunlight. The project will isolate this material. Need to extend shore line material around park area due to erosion and loss of ground.

C. Busch – Should note that on Monday there was a site visit at the project site with many resource conservation agencies to discuss the habitat issue. DMF submitted a letter today and they did indicate the area is significant to winter flounder. Also a letter from Mr. Smith with the opinion that the area does not provide productive habitat. The DMF letter is looking for mitigation for loss of habitat.

V. Li – We did not receive additional information before the hearing? What we had reviewed was two pile supported pedestrian piers.

B. Campbell – There is one pier for the wind turbine and the other pier was eliminated and instead will have a point access pier; viewing area with seating. Pier will not extend over foot print of rock revetment.

V. Li – The pier will only be constructed if there is money for the wind turbine?

T. Pappas – Yes, the construction of the turbine is dependent upon economic conditions and incentives.

V. Li – Reference to interpretive signage, benches and binoculars. Can you point out where these amenities will be located?

B. Campbell – The package that was sent indicates locations for the amenities.

T. Pappas – Still questions as to what should go on signage and we are willing to work with TBHA and other organizations as to where signs make sense and content.

V. Li – Project is not in a Designated Port Area correct?

B. Campbell – Correct.

V. Li – Signage should not be Harborwalk signage because it doesn't meet dimensional requirements, but allow public to follow the walkway.

J. Sullivan – Do we have any engineered plans on the outfall?

B. Campbell – We can forward the latest drawings, but not fully designed. Final, completed plans will be sent to BWSC.

J. Sullivan – The riprap may extend further than the proposed revetment.

S. Kunian – Will the asphalt be removed?

B. Campbell – Some will be removed, other material will be covered by the revetment.

M. Ludwig – The big issue is exposure to the sun. So having it covered is as good as having it removed.

S. Kunian – I would like a condition specifying what will be done with the asphalt. The DMF letter also asks for mitigation for removal of habitat. How will you address the mitigation request?

B. Campbell – After this permitting process we submit the project to ACOE and NMFS who will require certain mitigation. We also believe with what is being installed will improve habitat. We have discussed mitigation in East Boston; there is a site where debris can be removed.

S. Kunian – I would like to have as a condition that DMF reviews and is satisfied with the mitigation. I also once represented the Peninsula Yacht Club. Have you spoken to the Yacht Club?

B. Campbell – I believe that we have discussed the project with them in general.

T. Pappas – Because they are not a direct abutter we have not had conversations with them.

S. Kunian – I would like to add a condition that you provide them with an overview of the project and solicit their comments.

C. Button – comments from the public – no public comment

V. Li – Some confusion with the DMF letter and the habitat components discussed. There are two components referenced. What does she mean by the two?

C. Busch – Not really clear to me either.

C. Button – Component one appears to indicate areas of fill that need to be mitigated, and component two speaks to doing the work at certain times of the year.

S. Kunian – I think we need to solicit DMF's comments on mitigation. DMF needs to be satisfied with the proposed mitigation.

B. Campbell – DMF had earlier submitted a similar letter when the ENF was submitted.

V. Li – There are to be significant impacts within areas subject to the Commission's jurisdiction. DMF's letter references two components based upon site visit on Monday. I doubt these matters were discussed in an earlier letter. I want to understand if DMF is satisfied with what is being proposed, which was not discussed at the MEPA scoping session.

S. Kunian – Again, we should have DMF review the proposed mitigation to see if satisfactory, and if not then require additional mitigation.

C. Button – Has the proponent reviewed the draft Special Conditions – any comments?

B. Campbell – No comments on the draft.

C. Busch – Does this permit include the proposed outfall that we do not have plans for?

J. Sullivan – Special Condition 51 requires submission of plan and approval by BWSC. BWSC will review and final, signed plans will need to be submitted to the Commission. Condition 51 can handle the water and sewer plans as well as the outfall.

V. Li – I want to commend the proponent on making significant changes based upon Commission comments.

S. Kunian – Motion: I move the draft Order with the three conditions: a report on the asphalt removal; DFM satisfaction with the proposed mitigation; and, receiving comments from the Peninsula Yacht Club.

V. Li - Second

- **Motion made by S. Kunian and seconded by V. Li to issue an Order of Conditions, as amended, for the project and close the hearing (voted 6/0/0)**

7:13 PM Request to amend Order of Conditions DEP File No. 006-1198 from the Spaulding Rehabilitation Hospital for additional repairs to the parcel 6 pier, involving the replacement of the fender pile system and repairs to pier support piles, First Avenue, Charlestown, Little Mystic Channel (Land Under Ocean).

Owner: Boston Redevelopment Authority

Representatives: Andy Magee, Epsilon Associates; Peter Williams, Vine-GZA; David Pearson, Spaulding Rehab Hospital; Adam Hudley, Goulston & Storrs

Documents: Project plans and details as provided in the amendment request.

V. Li - For the record Epsilon Associates and Goulston and Storrs are dues paying members of my employer The Boston Harbor Association.

C. Button – Any initial staff comments?

C. Busch – The proponent was advised to file an amendment to the existing Order as the work is significant enough to warrant Commission review. The existing Order contains several conditions specific to waterside work and cover much of the work proposed.

A. Magee – Initial permit was requested in June of 2009. Overview of project provided and minor modification request. Current request is specific to Chapter 91 requirements which involve the berthing of large vessels along the Parcel 6 pier. The pier is in disrepair and needs upgrades, which is the subject of the amendment request. Work involves pile repair and a new fendering system. Existing Order does cover this type of work as pile repair work was initially anticipated, just not to the extent that is now required. Draft conditions are acceptable to the proponent.

V. Li – Is the project on schedule and is there funding available

D. Pearson – Yes, we are on schedule and there is funding.

C. Button – Any comment from the public – no comment.

C. Button – Is there a motion?

S. Kunian – Motion: move the draft amendment conditions.

V. Li – Second.

- **Motion made by S. Kunian and seconded by V. Li to issue an Order of Conditions, as amended, for the project and close the hearing (voted 6/0/0)**

7:24 PM Notice of Intent from Sterling Suffolk Racecourse LLC, for the Suffolk Downs Stabling Area and Racecourse Stormwater Improvements, involving the construction of a process wastewater management system including process water drains, sand filters, a retention pond and pump station, 111 Waldemar Avenue, East Boston, Sales Creek (Bordering Land Subject to Flooding, Riverfront Area, 100-foot Buffer Zone).

Owner: Sterling Suffolk Racecourse LLC

Representatives: Chip Tuttle, SSR; Sean Reardon, Tetrattech

Documents: Project plans and details as provided in the project Notice of Intent.

V. Li - For the record Tetrattech Rizzo is a dues paying members of my employer The Boston Harbor Association.

C. Button – Any initial staff comments?

C. Busch – I did provide some comments to the proponents consultant regarding the Notice of Intent and the lack of a Stormwater Report. I did receive a response to the comments late in the day, however, I have not had an opportunity to review them.

S. Reardon – Suffolk Downs and EPA have been working for the past three years on stormwater improvements for the site. All new drainage and sewer is proposed. Existing conditions and location reviewed. Aspects in Boston are

installation of force mains, filling of area outside resource areas within the infield of the racecourse and installation of sand infiltration BMP's. Mitigation measures such as erosion and sediment controls and silt curtains will be employed.

V. Li – Will you bring in more horses at some point?

C. Tuttle – Unlikely as we do not have the space or money for additional horses. Horse populations reviewed.

V. Li – So the trigger is the 500 horses?

C. Tuttle – Yes, we have 750 horses at this time.

S. Reardon – This is a medium concentrated animal feed operation which allows us to treat the stormwater runoff. For a large operation treatment is not an option.

C. Button – I would suggest larger force mains for better maintenance.

S. Kunian – The retention pond is in Revere?

S. Reardon – Yes. That is where the process waste water is directed and then to a public sewer system. There will be a plastic or bentonite liner under the pond to prevent infiltration of waste water.

C. Busch – The pond is designed for the 25-year storm only?

S. Reardon – Yes, that is the EPA requirement. Flows beyond that would overflow into the Sales Creek.

C. Button – Any public comment?

East Boston Resident – I live on Waldemar Avenue and there are issues with the sewer. BWSC is in most every week to prevent back ups. Will the new system cause a worse problem.

S. Reardon – Met with BWSC and we have a different routing path that comes in below the problem area.

J. Sullivan – They found a collapsed pipe last March, which is being replaced. If there are additional problems it will not be related to flows from the racecourse.

C. Button – Have you reviewed the special conditions?

S. Reardon – Yes, the attorney is reviewing the matter, so we would prefer to continue the matter.

V. Li – Move a continuance of the matter.

S. Kunian – Second.

- **Motion made by V. Li and seconded by S. Kunian to continue review until the August 3, 2011 public hearing (voted 6/0/0).**

7:45 PM Request from Philip DeNormandie for the Commission to review a minor modification to the Hodge Boiler Works Development Project, subject to Order of Conditions DEP File No. 006-1058, involving the construction of an interim Harborwalk, 101 Sumner Street, East Boston, Boston Inner Harbor.

Owner: Hodge Boiler Works, LLC

Representatives: Richard Jabba, Fort Point Assoc.; Philip DeNormandie, Hodge Boiler Works

Documents: Plans and details as provided in the modification request.

V. Li - For the record Fort Point Associates and DeNormandie Associates are dues paying members of my employer The Boston Harbor Association.

C. Button – Comments from staff?

C. Busch – This request is for a minor modification. There are provisions in the existing Order which allow proponents to come before the Commission with minor design changes for the Commission to determine whether additional filings are necessary.

C. Button – This will allow public access until construction begins?

P. DeNormandie – Yes, until construction commences.

R. Jabba – The proposed temporary Harborwalk would connect LoPresti Park to Carlton Wharf where there is existing Harborwalk. The proposed Harborwalk will be graded to match grades on adjacent sites. Walkway will be concrete or crushed stone and about 220-feet in length. Benches will be placed upon the top of the existing berm. The rest of the site will be fenced off to prevent access.

V. Li – A very positive action. It is not in-lieu of any other permit or Chapter 91 requirements. It is a generous gesture. There were some questions from the Parks Department and design related issues with Lopresti Park. Does Parks have any comment?

A. Ghirin – I am not aware of any design related matters. You will have to contact the Parks Department.

P. DeNormandie – There was some discussion with Parks as to where the walkway would interface with the Parks property due to a small drop off wall. We will coordinate with Parks and likely install a temporary ramp. Parks just wanted to make sure that nothing being installed would be permanent.

A. Ghirin – There will be a construction permit from the Parks Department for the project.

V. Li – Will it be constructed this year?

P. DeNormandie – As soon as the approvals are in we will start installation.

V. Li – Motion: since this is a modification we do not have an Order of Conditions, so a letter should be sent outlining that it is a minor change and that the Harborwalk is temporary and does not relieve the owner of any obligations under Chapter 91 or the existing Order.

S. Kunian – Second.

- **Motion made by V. Li and seconded by S. Kunian to have a letter sent approving the minor modification with conditions (voted 6/0/0)**

7:55 PM Request for Determination of Applicability from the Massachusetts Department of Transportation for the delineation of wetlands along its right-of-ways within the City of Boston for the application of herbicides as part of MassDOT's Vegetation Management Plan, subject to 333 CMR 11:00.

Owner: Massachusetts Department of Transportation

Representatives: Rick McCullough, MassDOT

Documents: Plans and details as provided in Request for Determination of Applicability.

C. Button – Any staff Comments?

C. Busch – There was only one copy of the plans submitted, therefore the commission did not receive a plan copy. This filing is similar to the rail right-of-way filings received earlier in the year. The RDA is for the delineation of wetland resource areas as part of a vegetation management plan reviewed and approved by the Department of Agricultural Resource.

R. McCullough – The delineations are specific to the Turnpike and I-93 south of the city. We are here to see if the Commission agrees with the no spray zones. We first checked with MassGIS wetland mapping, then had survey consultants GPS the wetland boundaries to get more specific delineations. For I-90 the only area of concern is the Muddy River. On I-93 South the no spray zone starts by the gas tanks and continues for the most part south to the city limits. The spray program is done in-house; we have licensed applicators. We have found that over the years we need to spray less. Target vegetation is anything growing into the right-of-way which poses a safety hazard.

C. Button – Is there any comment? Is there a motion?

S. Kunian – Motion: I move a negative determination.

V. Li - Second

- **Motion made by S. Kunian and seconded by V. Li to issue a Negative Determination of Applicability and close the hearing (voted 5/0/1)**

Update from the Massachusetts Port Authority on the Green Bus Depot Project, Order of Conditions DEP File No. 006-1260, and ongoing meetings with City agencies and community groups on greenway connection alternatives.

Owner: Massachusetts Port Authority

Representatives: Tom Ennis, Massport

V. Li – The Massachusetts Port Authority is a dues paying member of my employer The Boston Harbor Association.

T. Ennis – Since the last update Lowell Richards and staff has been working with the BRA, the MBTA and the public. We feel significant progress has been made. There have been a number of meetings in terms of planning staff with Massport, BRA and BNAN. There was a presentation at the last East Boston Greenway Council meeting. It appears the route that follows the MBTA right-of-way is the preferred option. We have been following the city's lead on the public process.

V. Li – What is the status of the Greenbus Depot?

T. Ennis – Scheduled to start on August 20th.

V. Li – Will the design be complete by then?

T. Ennis – The Greenbus Depot could be complete and still accommodate a pathway.

V. Li – What would the construction time frame for a pathway.

T. Ennis – Probably six months to a year.

V. Li – We typically like to see all project components being constructed and completed at the same time.

T. Ennis – Issue is there are a lot of moving parts given the number of property owners, and authorizations need to be approved.

S. Kunian – Have you decided on a route?

T. Ennis – Right now the consensus route is along the MBTA right of way. All property owners have met and it appears this route will work out.

S. Kunian – If it doesn't work out will the construction of the depot preclude other route options?

T. Ennis – No. Feel confident that the MBTA route will work out.

S. Kunian – What is the hesitation with confirming the route?

T. Ennis – Meetings between property owners have been positive but can't say that all the property owners will approve the route and allow for the project.

Gail Miller – Representative of Air Inc. The community groups have only met with the BRA and Massport once and we were given a presentation, not participating in the process. Still waiting to be invited in to discuss the options and design. We have submitted comments, but have not participated beyond that.

V. Li – Construction of the depot would not preclude construction of any of the route options?

G. Miller – It appears so, but can't be certain.

Gretchen Schneider – Working with BNAN. Have met with Massport and BRA staff and have had positive and constructive meetings. The various routes being discussed work around the Greenbus Depot. The community wants to capture as much of the marsh as possible in the pathway. Everyone wants to see the greenway under way. To our knowledge no commitments have been made. Hope the consensus route becomes the confirmed route.

T. Ennis – The city is taking the lead on this whole process. Gretchen has been to a number of the meetings which have been constructive.

G. Schnieder – There was a letter sent supporting the consensus route. The route is the middle-ground.

G. Miller – We would like design to incorporate the Neptune Road area. We still haven't been shown anything and don't know if Neptune is part of the plan. We would like to sit down and review.

S. Kunian – What is the problem with having a member of the Greenway Council as part of the process?

T. Ennis – Need to check with the BRA.

S. Kunian – Before a fait accompli is presented by the three entities there needs to be a community member involved in the planning and design.

T. Ennis – This is a joint process and I can bring this back to Lowell Richards.

V. Li – Because Richard McGuinness and Mr. Richards are not present we should have another update in September.

T. Ennis – I would suggest it be the second hearing to allow for more work to be done.

S. Kunian – Motion: Mr. Busch will send a letter recommending an appropriate member of the community take part in the planning and design process and Mr. McGuinness and Mr. Richards be present at the September hearing.

- **Motion made by S. Kunian and seconded by V. Li to have a letter sent (voted 6/0/0)**

Update from the Massachusetts Department of Transportation on Order of Conditions DEP File No. 006-0647, issued for the construction of a water transportation docking facility adjacent to 500 Atlantic Avenue and Russia Wharf, Fort Point Channel, Boston.

Owner: Massachusetts Department of Transportation

Representatives: Ronald Killian, MassDOT

R. Killian – First we had sent a letter noting that we would not be requesting an extension of the Order of Conditions for the project; however, Mr. Busch noted that there is the Permit Extension Act, which automatically extends permits. Our legal department is currently looking at this. We are currently working with the abutters to assess what makes sense to have installed on that side of the Fort Point Channel, and will continue to work with them.

V. Li – I don't understand letting the permit lapse?

R. Killian – We would let the permit lapse and then come back with a filing for a water transportation facility based upon what the abutters want and need in the area.

S. Kunian – This is mitigation and you should not be relieved of your responsibility. If the water transportation is not built something else should.

V. Li – This is particular mitigation for a particular area. There is other mitigation, but this is specific to the Fort Point Channel.

S. Kunian – Why don't we continue this matter until there is resolution on the extension matter. What are you waiting for from the abutters?

R. Killian – They are looking at what makes sense give the number of docking facilities in the area. Does the existing design make sense.

V. Li – The MassDOT project will provide the ADA access to the adjoining docks. Let's continue and let all the abutters know and Friends of Fort Point Channel.

S. Kunian: Motion: to continue the matter to the second hearing in October.

V. Li – second.

- **Motion made by S. Kunian and seconded by V. Li to continue review of the matter (voted 6/0/0)**

Request for Certificate of Compliance for Order of Conditions DEP File No. 006-1227 from the Emerald Necklace Conservancy for the renovation of a decommissioned Gate House in the Back Bay Fens, at 125 Fenway, Muddy River.

Staff noted that completed Request for Certificate of Compliance was submitted and based upon a site visit the project area is stable and the work complete

- **Motion made by V. Li and seconded by J. Lewis to issue a Certificate of Compliance (voted 4/0/2)**

Motion made by S. Kunian and seconded by V. Li to adjourn the public meeting (voted 6/0/0).