

City of Boston Conservation Commission
Public Hearing Meeting Minutes
Boston City Hall, Hearing Room 801
Boston, Massachusetts, 02201

December 21, 2011

Commissioners Present: Charles Button - Chairman, Antonia Pollak, Vivien Li, Stephen Kunian, John Sullivan

Commissioners Not Present: John Lewis, Jeanne McHallam

Staff Present: Chris Busch, Executive Director

6:15 PM **Notice of Intent from the Massachusetts Department of Conservation and Recreation to conduct geotechnical borings for the design of a pedestrian pathway and pile supported boardwalk, 238 Victory Road, Dorchester, Dorchester Bay (Salt Marsh, Land Subject to Coastal Storm Flowage, Land Subject to Tidal Action, 100-foot Buffer Zone).**
Owner: MA Department of Conservation and Recreation
Representatives: None present
Documents: None presented

C. Button – This matter was continued from the December 7, 2011 public hearing. Do we have a project proponent?

C. Busch – I have received another request for a continuance until the January 18, 2012 public hearing. The DCR has noted that property owner for the project, National Grid, has been cooperative, however, they have yet to sign the project Notice of Intent.

C. Button – Do we have a motion for a continuance?

S. Kunian – So moved.

A. Pollak – Second.

- **Motion made by S. Kunian and seconded by T. Pollak to continue review of the Notice of Intent until the January 18, 2012 public hearing (voted 5/0/0)**

6:18 PM **Notice of Intent from DCK Realty Trust for structural repairs to an existing building and foundation repairs, including the replacement of pile caps and installation of helical anchors, at 90 Commercial Wharf, North End, Boston Inner Harbor (Land Under Ocean).**
Owner: DCK Realty Trust
Representatives: None present
Documents: None presented

C. Button – This matter was continued from the December 7, 2011 public hearing. Do we have a project proponent?

C. Busch – I spoke with the proponent's consultant earlier today and they stated the property owner would be present to discuss the project and building repairs.

C. Button – Without a proponent present we cannot take action on this matter. As we have time before the next agenda item let's review the minutes for the August 3, 2011 public hearing, and review the matter should the proponent arrive prior to the close of the hearing.

6:20 PM **Motion made by T. Pollak and seconded by Vivien Li, to accept the August 3, 2011 public hearing meeting minutes as drafted (voted 5/0/0).**

6:30 PM Enforcement Order issued to Albert J. Todesca Jr. for the filling and alteration of wetland resource areas and associated 100-foot Buffer Zone without a valid Order of Conditions, Willet Street, West Roxbury.
 Owner: Albert J. Todesca, Jr.
 Representatives: Albert J. Todesca, Jr.

C. Button – Do we have staff comments on this matter?

C. Busch – Yes, on December 5, 2011 I received a call from a resident on Heron Street in West Roxbury, adjacent to Mr. Todesca's property at 4945 Washington Street. The resident noted that for several days a piece of heavy equipment had been piling up fill material and debris along his property line and into adjacent wetlands. On December 6, 2011 I conducted a site inspection of Mr. Todesca's property with Mr. Jack Tracy, Senior Health Inspector with the Boston Public Health Commission. Piles of fill approximately 20 to 35 feet in height were present within the 100-foot Buffer Zone to Bordering Vegetated Wetland, with some material migrating into the wetland area. The fill material was either recently placed or moved into the area as it appeared freshly disturbed and prior aerial photographs did not represent the present location of the material. The area where the filling occurred was represented on a prior Notice of Intent filing plan by a Mr. Frank Kent who developed several lots on Willet Street, upgradient of the recently filled area. In the Order of Conditions issued to Mr. Kent in 2006, the Commission expressly prohibited in a special condition development or pre-development activities in the area subject to the Enforcement Order. Mr. Todesca was copied on the Order of Conditions.

Commission discussion: The Commission reviewed site plans provided by Mr. Todesca and plans from the 2006 Notice of Intent to assess the subject area and extent of fill. The Commission noted that given the prior Order, and Mr. Todesca's experience as a developer, he should have known that a filing with the Commission was necessary prior to his actions at his property. Commission staff noted that the issued Enforcement Order required the removal of the fill from the resource area; regrading to limit erosion, installation of erosion and sediment control measures and removal of debris from the fill. The Boston Office of Environmental Health had also issued a Notice of Non-Compliance which also requires removal of the fill and its screening to remove construction debris. The Commission voted to continue the matter until the second hearing in February where it will review compliance with the aforementioned mitigation and restoration measures and determine if fines will be imposed.

- **Motion made by S. Kunian and seconded by T. Pollak to ratify the Enforcement Order, impose restoration conditions and continue review of the matter until the February 15, 2012 public hearing (voted 5/0/0)**

6:50 PM Notice of Intent from DCK Realty Trust for structural repairs to an existing building and foundation repairs, including the replacement of pile caps and installation of helical anchors, at 90 Commercial Wharf, North End, Boston Inner Harbor (Land Under Ocean).
 Owner: DCK Realty Trust
 Representatives: Peter Karlson
 Documents: Project plans and details as provided in the project Notice of Intent
**During this hearing the digital voice recorder failed, therefore in some instances specific commissioners are not identified.*

C. Button – We have a proponent present for the 6:15 p.m. agenda matter at this time so we shall proceed. Any initial staff comments?

C. Busch – This matter was continued from the December 7, 2011 public hearing as the Commission had questions regarding repair work on the building structure and adjacent Harborwalk.

P. Karlson – Last spring there was a fire within the building which caused damage to approximately 10% of the structure. Most of the work will be above the pile caps, however, some will be below.

Commissioner – Will work occur or extend beyond the existing building foot print?

P. Karlson – We will only replace and restore what was existing.

Commissioner – At the last hearing the project consultant referenced a restaurant within the building.

P. Karlson – As long as I have owned the building it has been a two-story, 8,000 s.f. office building and will be returned to said dimensions and use.

Commissioner – The Massachusetts Department of Environmental Protection in 2004 issued a Minor Modification to a Douglas Friedman for changes in use within the Commercial Wharf Condominium Building. The Modification required construction of a Harborwalk on the south-side of the wharf and required sign-off from adjacent property owners to facilitate the construction of the Harborwalk.

P. Karlson – I am aware of the requirement, however, I am not party to the matter.

Commissioner – Would you take issue with the construction of the Harborwalk adjacent to your property.

P. Karlson – No, such an amenity will only improve the value of my property.

Commissioner – How will demolition debris be contained?

P. Karlson – There will be containment measures implemented and all demolition work will pull debris into the building.

C. Busch – The project plans provide for a containment boom in the water and structural containment measures on the building to prevent debris from falling from the building.

Commissioner – I would like to have a condition for daily monitoring of debris in the water.

Commissioner – We also do not have plans for the work to occur on the building. A final plan set should be submitted to Commission staff for review and approval.

C. Button – Any questions or comments from the audience? – No public comment.

C. Button – Do we have a motion?

S. Kunian – I move the draft Special Conditions with the following amendments: a daily log be kept and that there be daily monitoring for debris in the waterway; a final plan set of the building be submitted for Commission staff review and approval; and the addition of a condition noting the Applicant will not unreasonably withhold consent for construction of the Harborwalk, and if they are unable to provide such consent that the Commission be provided with Applicant's reason for not signing.

A. Pollak – Second.

- **Motion made by S. Kunian and seconded by T. Pollak to issue an Order of Conditions as amended and close the hearing (voted 5/0/0).**

7:15 PM Update from the Massachusetts Department of Conservation and Recreation on future water transportation options at Lovejoy Wharf, subject to Order of Conditions DEP File No. 006-1285.

Owner: MA Department of Conservation and Recreation

Representatives: Jack Murray, DCR; Karl Pastore, DCR

J. Murray – We are before you this evening in following with condition 53 of the Order of Conditions issued for work out at Georges Island to review Lovejoy Wharf. The Lovejoy Wharf pier was permitted in 1995 as part of a mitigation agreement which was entered into by the Central Artery Project and served as a transportation facility managed by the MBTA. The term of the license was through the construction period and then in 2007 the DCR and MassDOT entered into an agreement to maintain the property and the asset. There are certain requirements as part of this license and future license which requires that when a permanent facility is developed at Lovejoy Wharf the float at Lovejoy, which is now at Georges, will be moved over to the wharf to serve as mitigation. We endorse public access to the waterfront and will abide by the requirement to provide a float dock facility once the Lovejoy Wharf facility comes on line. Nothing has been done with the relocation of the structure to Georges Island precludes its relocation back to Lovejoy when the time comes.

T. Pollak – I would ask that Commission staff along with ISD check on the condition of the Hoffman building. I understand they have some structural issues with the existing wharf and building.

C. Busch – I will contact ISD this week and see about a site visit.

V. Li – It appears that things are moving forward with the Lovejoy Wharf development. We do not want to be in a situation where the DCR needs the float at Georges and the Lovejoy property is available for the new facility.

J. Murray – We are working on a new facility at Georges and we are aware of our obligations to provide a suitable float at Lovejoy.

7:30 PM Request for Certificate of Compliance for Order of Conditions DEP File No. 006-1247 from the Boston Parks and Recreation Department for the repair of an existing granite block seawall at Ryan Playground, 51 Alford Street, Charlestown, Mystic River.

C. Busch – This matter was continued due to some debris that needed to be removed and post construction stabilization measures. Those issues have been resolved and I recommend issuance of a certificate for completion of the work.

C. Button – Do we have a motion.

S. Kunian – Moved.

V. Li – Second.

- **Motion made by S. Kunian and seconded by V. Li to issue a Certificate of Compliance (voted 4/0/1).**
- **Motion to adjourn the public hearing made by V. Li and seconded by S. Kunian (voted 5/0/0).**