

APPROVED 12/12/12

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

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

March 7, 2012

Commissioners Present: Charles Button – Chairman, Antonia Pollak, Jeanne McHallam, John Lewis, Stephen Kunian

Commissioners Not Present: Vivien Li, John Sullivan

Staff Present: Chris Busch, Executive Director

6:00 PM Request for Determination of Applicability from the New England Aquarium for the installation of a new diesel powered generator on an existing concrete slab, at Central Wharf, 250 Atlantic Avenue, Boston, Boston Inner Harbor (Land Subject to Coastal Storm Flowage).

Owner: New England Aquarium

Representatives: James Duffey, NEAq

Documents: Photos and plans as submitted with the RDA

J. Duffey – There is an existing generator used for life safety purposes and the new generator would supply the life support load in the event of a power outage. There is an existing fence enclosure that the generator would be located within along the south side of the building. The generator would sit on an existing, elevated concrete slab which is above the flood level. The generator would be self-starting in the event of a power failure.

T. Pollak – How often do the generators need to be tested and is there enough baffling for sound?

J. Duffey – They are run monthly to ensure they are functioning properly and it will be located within an enclosure similar to that of the existing generator which runs monthly without incident or complaint.

C. Button – Is there a spill control plan?

J. Duffey – Yes, we have spill containment kits on site.

C. Button – Any public comment – No public comment.

C. Button – Do we have a motion?

J. Lewis – So moved.

T. Pollak – Second.

- **Motion made by J. Lewis and seconded by T. Pollak to issue a Negative Determination of Applicability Conditions for the project and close the hearing (voted 4/0/0).**

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: National Grid

Representatives: Alyssa Jacobs, Epsilon Associates

Documents: Photos and plans as submitted with the NOI

C. Busch – This matter has been continued from the February 15, 2012 public hearing as access agreements were still being developed with the property owner, National Grid.

A. Jacobs – The project involves three borings within salt marsh and land subject to tidal action. The borings are necessary to advance design of a pedestrian and bike pathway. The drill rig will be on mats to reduce impacts to resource areas and the work will take approximately two to three days at most.

C. Busch – Will the site be accessed from the National Grid property or Morrissey Boulevard.

A. Jacobs – It is only accessible from the National Grid site. We will use an access road constructed for the recent solar array that was installed.

C. Button – Any public comment – No public comment

C. Button – Is there a motion?

S. Kunian – So moved.

J. Lewis – Second.

- **Motion made by S. Kunian and seconded by J. Lewis to issue an Order of Conditions for the project and close the hearing (voted 5/0/0).**

6:30 PM Notice of Intent from Thompson Island Education Center, Inc. for the replacement of a 40-foot by 60-foot floating dock and associated steel pilings, at Thompson Island, Dorchester Bay (Land Under Ocean).

Owner: Thompson Island Education Center

Representatives: Jack McKenna, HydroTerra Environmental

Documents: Photos and plans as submitted with the NOI

J. McKenna – The project involves the replacement of a dock and reinstallation of six pilings. Currently we have a DCR dock that will be removed by the agency and we will replace the dock in-kind. There are currently four pilings and we will be installing six for the new structure.

S. Kunian – Who is removing the existing piles?

J. McKenna – The DCR will remove the piles and move the float to Peddocks Island.

S. Kunian – I want some acknowledgement by the DCR that they consent to the work and will be bound by the Order of Conditions.

C. Button – Any public comment – No public comment.

C. Button – Is there a motion?

S. Kunian – So moved with the condition that there be DCR recognition of their compliance with the Order.

J. Lewis – Second.

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

6:45 PM Notice of Intent from the Massachusetts Port Authority for the replacement of the Runway 33L approach light pier, involving the removal of 1,900 feet of an existing timber pier and in-kind construction of concrete pile supported light pier, Logan International Airport, East Boston, Boston Harbor (Land Under Ocean).

Owner: Massachusetts Port Authority

Representatives: Lisa Standley, VHB; Stewart Dalzell, Massport

Documents: Photos and plans as submitted with the NOI

S. Dalzell – The Commission may recall that we have been before the Commission on a few occasions regarding work associated with the 33L Runway Safety Area Improvement Project. The replacement of the light pier at the runway was initially included in the RSA work but dropped due to funding. We are now in a position to advance the project and are looking to replace the existing timber pier with a concrete supported pier structure that will be similar in size and extent. The new pier will be located just off of the existing structure so the timber pier can be demolished and removed. Right now we are about 50% complete on the runway deck structure and we are currently not working on the facility due to the winter months. We anticipate some economies of scale with the pier replacement work occurring along with the RSA project.

C. Busch – So the existing pier will stay in place while the new structure is built?

L. Standley – Yes.

J. Lewis – Will the piles be driven or vibrated it?

L. Standley – They will be driven and the old piles will be cut at the mudline. We have had substantial discussions with various resource agencies and the consensus has been to cut the piles rather than pull them.

C. Button – Any comments from the public – No public comment.

C. Busch – Commissioner Li who is not present asked that the Commission be updated on the mitigation components of the RSA project.

S. Dalzell – I can give an update. The eelgrass and salt marsh mitigation are separate aspects of the RSA project. We harvested and transplanted over 100,000 eelgrass shoots last summer to a location in Dorchester and majority went to three adjacent locations in Hull. In the early part of the last year we had a good survival rate in Hull, however, Dorchester did not do well. Towards the end of the season the Hull locations were not doing well either. We have a meeting scheduled with the Eelgrass Work Group to assess next steps and what may need to be done in the way of additional mitigation if the eelgrass does not survive. The salt marsh work will not start until 2013. We have restoration locations established but that will not start until the 33 L work is complete.

C. Button – Do we have a motion?

J. Lewis – So moved.

T. Pollak – Second.

- **Motion made by J. Lewis and seconded by T. Pollak to issue an Order of Conditions for the project and close the hearing (voted 5/0/0).**

7:00 PM Request to amend Order of Conditions DEP File No. 006-1244 from Boston Boat Basin LLC, to replace existing floats and remove and install existing and new piles at 87 Commercial Wharf, North End, Boston Inner Harbor (Land Under Ocean, Fish Run).

Owner: Boston Boat Basin, LLC

Representatives: Jamie Fay, Fort Point Assoc.; Richard Jabba, Fort Point Assoc.; Charles LaGasse, Boston Boat Basin

Documents: Photos and plans as submitted with the Amendment Request.

C. Busch – This matter was continued from the February 1, 2012 public hearing as the Commission requested Mr. LaGasse's presence and also asked to review the disposition of the south side Harborwalk at Commercial Wharf.

J. Fay – The project involves a reconfiguration of some of the docks and piles at the marina. We have an existing Order for some of this work and the amendment request is for additional dock and pile relocation. The intent of the proposed change is to create a floating break water to allow for better protection against wakes and wind within the marina. There is also a minor reconfiguration on the north side of the facility. Each slip is fully supplied with power and pump out facilities. It will take about six weeks to conduct the work.

S. Kunian – You have not discussed the Harborwalk which is an important aspect to this hearing. Will you be constructing the Harborwalk?

V. Li – Are we covering more of the watershed with the new docks?

J. Fay – It is the same square footage of coverage.

V. Li – What is the status of the binoculars on the property?

J. Fay – The binoculars have been installed and I can provide photos at this time.

S. Kunian – I have one question, are you going to agree that the Harborwalk can be installed?

C. LaGasse – Yes.

S. Kunian – Have you reached an agreement with Commercial Wharf for its construction?

C. LaGasse – No.

S. Kunian – Then I vote to continue this matter.

C. Delgreco – I represent the condominium at Commercial Wharf. In 2006 we signed an agreement and we said we would give 4-feet of our land and we did work on our seawall to support the walkway. This was also signed by Douglas Freeman who is required to build the Harborwalk. Commercial Wharf has agreed to maintain the Harborwalk.

S. Kunian – What are the obstacles to having the Harborwalk constructed.

J. Fay – The obstacles are that there is no real estate right or easement for its construction; there is a question as to whether there is money for its construction; there is a question as to whether there is a proponent; and there are no permits.

C. Delgreco – There were plans and specifications developed for the Harborwalk.

S. Kunian – Will you grant the easement, and if you will not grant it why?

C. LaGasse – I have built over a mile and one half of Harborwalk in the Commonwealth. I have never seen a situation where you can take a wharf and granite seawall and build over it, effectively taking away navigable waters. The Harborwalk can and should be built on the wharf and not on other's properties.

J. Fay – We have asked DEP as to whether the end of the wharf requires a Chapter 91 License. DEP issued a positive determination, so Commercial Wharf needs a license for their parking lot. An administrative process will commence and this matter may be resolved through that process at this point.

C. Lagasse – I have also filed a request with DEP regarding the conversion of the units within the wharf. If you look at the proposed Harborwalk you see that nothing gets moved on Commercial Wharf's property. It makes no sense to cover watersheet when there is available space on the wharf to construct the walkway. I don't think DEP even allows for parking on the perimeter of wharves.

T. Pollak – What I would suggest is that all of the parties engage in a conversation to resolve this matter. There needs to be a Harborwalk. I would urge the Chairman and staff weigh in and look at this and maybe there needs to be new design, but this has gone on long enough and there needs to be a willingness among all parties to get it done.

C. Button – Do we have any comment from the public – No public comment.

V. Li – Did Mr. Freeman sell his units?

J. Fay – I believe he did sell the units.

V. Li – So, he sold the units and has his money and he has not had to build anything.

Michael Malm – I am a neighbor and I have lived in the marina during the summers for over ten years, and the change from Les Marino to Chuck Lagasse is significant. It is a first rate marina now and he runs the facility better than any I have seen on the harbor. I can't understand why a walkway would be built to obscure the seawall and take up limited watersheet.

S. Kunian – I move that we continue this matter.

V. Li – Second.

T. Pollak – I would like to amend the vote to require that there be a site visit and a letter to DEP to get a sense as to how and when DEP will act on this matter.

J. Fay – I would say that we will not be dramatically further along in two weeks or four weeks. I might suggest that you issue the Order and require regular status reports on the Harborwalk.

T. Pollak – My sense is that it is a regulatory matter now and we need to know what DEP is going to do. I do not feel comfortable voting this evening.

- **Motion made by S. Kunian and seconded by V. Li to continue review of the matter to the April 4, 2012 (voted 5/0/0).**

8:15 PM Request for Certificate of Compliance for Order of Conditions DEP File No. 006-1191 from the National Records and Archives Administration for the John F. Kennedy Museum and Library Shoreline Stabilization and Harborwalk Extension Project at Columbia Point, Dorchester, Dorchester Bay.

C. Busch – I have received a Certificate of Compliance request which has been signed off on by the project engineer. The work has been completed however they have not installed Harborwalk signage in conformance with the conditions of the Order. I recommend not issuing a Certificate of Compliance at this time.

- **Motion made by T. Pollak and seconded by J. Lewis to defer review (voted 5/0/0).**
- **Motion made by V. Li and Seconded by T. Pollak to accept the September 7, 2011 public hearing meeting minutes (voted 5/0/0).**
- **Motion made by V. Li and Seconded by J. Lewis to accept the October 5, 2011 public hearing meeting minutes (voted 5/0/0).**

8:20 PM Motion to adjourn the public hearing made by J. Lewis and seconded by T. Pollak (voted 5/0/0).