

Approved 6/4/14

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

**April 30, 2014**

**Commissioners Present:** Aldo Ghirin, Stephen Kunian, Vivien Li, Michael Wilson

**Commissioners Not Present:** Charles Button, Jacob Kritzer, John Sullivan

**Staff Present:** Stephanie Krueel, Executive Secretary

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- **Motion made by V. Li and seconded by A. Ghirin to appoint Stephen Kunian as the meeting chair (4/0/0 6:18 pm).**
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**6:00 PM** Notice of Intent for DEP File No. 006-1387 from Massachusetts Bay Transportation Authority for Culvert Replacement and Outfall Modification Project at Millers River near I-93, Charlestown, Charles River (Bank, LUWW, BLSF, Riverfront Area)

*Representatives: Matt Devlin, AECOM; Andrew Brennan, MBTA*

V. Li stated that AECOM is a dues paying member of her employer, The Boston Harbor Association.

A. Brennan explained the background for the MBTA project. Work will begin in earnest next spring. This fall, the currently proposed work will take place. During CA/T construction, one of the three culverts was crushed. The other two were plugged with silt and have since been cleaned out. The destroyed culvert will restore the system back to its original drainage capacity. A similar NOI has been filed with Cambridge and will be before their Commission on May 12, 2013.

M. Devlin described the maintenance project in detail. The existing rip rap and some LUO in front of the coffer dam will be removed and replaced with new flat stones and rip rap. The adjacent area is not vegetated, and the banks are comprised of concrete block walls and rip rap.

A. Ghirin asked the proponent to explain the rationale for relocation of the pipe. Mr. Brennan replied that due to the location of the foundations for the viaduct, the drainage pipe must be relocated.

Ms. Li asked how long the project will last. Mr. Brennan replied that this segment will begin August/September. Ms. Li asked for the cost of the segment. Mr. Brennan replied that it will cost \$3-5 M.

Ms. Li asked if additional visual or vegetation improvements will be done. Mr. Brennan replied in the negative. Mr. Devlin added that due to limited light penetration, there is no opportunity to add vegetation.

M. Wilson noted that areas further downstream are vegetated and appear to be a restoration. Ms. Krueel added that Ron Killian had presented an update on the vegetation within the past 6 months or so.

Ms. Li asked if J. Sullivan had provided any comments. Ms. Krueel replied that Mr. Sullivan had stated that the project has been engineered correctly and appropriately. There is no opportunity to increase capacity of the system to prepare for future increases in precipitation. by re-sizing the pipes in this location.

- **Motion made by V. Li and seconded by A. Ghirin to issue the Order of Conditions as written (4/0/0 6:28 PM)**
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**6:28 PM** Notice of Intent from City of Boston Parks and Recreation Department for LoPresti park Courts and Splash Pad Improvements Project, Sumner St, East Boston, Boston Harbor (LSCSF)

*Representatives: Brandon Riley, Weston & Sampson*

A. Ghirin recused himself.

V. Li stated that Weston & Sampson is a dues paying members of her employer, The Boston Harbor Association.

B. Riley described the overall project and noted the existing work will be completed by the end of May 2014. He described the proposed improvements for the currently proposed segment of work. Overall, impervious area has increased on this portion of the site; however this will be mitigated throughout the park as a whole. To ease this impact, the drainage plans aim to capture the first 1" of rainfall from all impervious surfaces and infiltrate them into the ground. He then described the stormwater system.

Ms. Li asked if the splash pad/spray fountain portion would be restored. Mr. Riley explained that this phase will include installation of the splash pad, but the playground will be restored in the third phase and will most likely be offline for a year or more.

Ms. Li noted that the basketball courts will not be available for use this summer. Mr. Riley pointed out that one court has been available for use, except during construction, which may last 3-4 months. Ms. Li expressed concern that the courts won't be available for kids during the summer. She suggested waiting until September to begin construction so the kids will have recreational opportunities over the summer. Ms. Li also asked if the site will be open to fishermen during construction. Mr. Riley replied in the affirmative. The entire Harborwalk is outside of the construction zone.

S. Kunian asked if the whole park would be closed for a year. Mr. Riley replied that just the area under construction will be closed. The rest will remain open.

Mr. Kunian noted that the Commission has had issues with artificial turf in the recent past, particularly runoff. Mr. Riley was not aware of such concerns. The stormwater in this case will infiltrate into the ground.

Mr. Wilson reminded the Commission that the issue at Daly field had been potential leaching of rubber mulch into the groundwater. He asked where the groundwater level is relative to the field. Mr. Riley replied that there are 6-7 feet of infiltration before it gets to the water table.

Ms. Krueel noted that at Daly field the groundwater was within a foot of the bottom of the infiltration system, whereas there is more depth at this location. Ms. Krueel stated that J. Sullivan reported to her that this drainage plan exceeds expectations.

Ms. Li asked about lighting. Mr. Riley explained the lighting plan and assured the commission that it light would not spill onto adjacent properties.

Mr. Kunian wanted to Mr. Riley to ensure that due to the height of the location, there is no likelihood of synthetic metals migrating into the harbor. Mr. Riley stated that he does not anticipate this, and that it is an extremely remote possibility. The stormwater system work was already approved at another Commission hearing. Mr. Kunian would like the proponent to investigate this and report back.

Ms. Li asked if there would be any tree removals. Mr. Riley stated that in this phase, a total of 4 trees would be removed. 42 trees will be added to the site overall, which represents a significant increase in tree planting, which will in turn result in increased shading.

Ms. Li asked about mutt mitt stations. Mr. Riley replied that this has not yet been discussed. He does not believe that dogs are permitted in Boston Parks, and installation of mutt mitt stations would encourage dog visitation.

Ms. Li stated that if dogs are in fact permitted, mutt mitts will be required.

Ms. Li asked the length of this phase of work. Mr. Riley replied 3-4 months. Funding for FY 16 has not been secured yet.

Mr. Wilson asked if there is an opportunity to tie the drainage system to the tree pits. Mr. Riley explained that walks and courts are pitched toward the tree pits.

Ms. Li asked where in the document it explains that a minimal number of trees are being removed, and many more are being planted.

Ms. Krueel apologized for not sending hard copies of the landscape plan to the Commission. She had sent them electronically. She then provided the hard copy to Ms. Li.

Mr. Wilson asked about the electrical systems in case of a flood event. Mr. Riley replied that he didn't know, but expects that these systems are resilient to flooding. He noted that the synthetic turf field may need maintenance after a flooding event.

Ms. Li suggested the following amendments.

1. If dogs are not prohibited from LoPresti Park, then one mutt mitt station will be installed and maintained perpetually.
2. Info provided regarding impacts of synthetic turf.
3. Strongly urge that the proponent consider delaying work on the b-ball courts until the end of the summer recreational facility to allow summer utilization.

Mr. Wilson asked if a lighting plan had been included in the submission. Mr. Riley replied no, but showed the commission a preliminary plan. Draft condition 53 was discussed. Mr. Wilson requested that a final lighting plan be submitted for staff approval.

- **Motion made by V. Li and seconded by M. Wilson to issue the Order of Conditions with the following amendments (3/0/1 6:55 PM):**
  - **A final lighting plan shall be submitted to Commission staff for review and approval.**
  - **In the interest of pollution prevention, the Applicant shall install one pet waste bag dispenser in an appropriate, visible location. This is a continuing condition and shall not expire with the issuance of a Certificate of Compliance.**
  - **The proponent shall provide to Commission staff information on the expected impacts of the proposed artificial turf field to water quality.**
  - **The proponent is strongly urged to consider delaying work on the basketball courts until the end of the summer to allow full utilization during the summer months.**

**6:55 PM** Notice of Intent from Massport for Berth 12 Maintenance Dredging, Conley Container Terminal, East 1st St, South Boston, Boston Harbor (LUO)

*Representatives: Stewart Dalzell & Jim Stolecki, Massport; Russell Titmus, Bourne Consulting Engineers*

V. Li stated that Bourne Engineering & Massport are dues paying members of her employer, The Boston Harbor Association.

S. Dalzell discussed the purpose of the project, which results from an emergency situation involving a ship grounding. There had been no damage to the environment or the ship, but this highlighted a problem within the berth. Berth 12 is 950 feet long adjacent to the bulkhead. Dredging will be up to 7,500 cubic yards. Dives, probes, and boring were performed by Bourne Engineering. The cause of the sedimentation has been attributed to ship activity. The goal is to remove the sediment to the previously authorized depth. Mr. Dalzell provided additional details about the bathymetry of the location. An environmental bucket is proposed for use during dredging, which will be performed from a barge mounted crane. The dredge spoils will be placed on scows and transported to CAD cell 12 in Chelsea Creek, due to the assumption that the spoils will contain some level of contamination. The cell will continue to have capacity, and therefore will not be capped. An NOI has been submitted to the Chelsea Conservation Commission for disposal of the dredge materials. Dredging will take place intermittently during July and August to accommodate birth use and shipping schedules. DMF provided a letter stating that the TOY must be adhered to.

S. Kunian asked about the location of the yacht club on the Reserved Channel. He suggested Massport contact the yacht club to minimize interference. Mr. Dalzell agreed to do so.

Ms. Li asked if there are any noise implications for any residents. Mr. Dalzell believes the equipment noise will be covered by background noise. Mr. Titmus added there will be no drilling or any activities that create noise.

Mr. Wilson asked how often maintenance will need to take place. Mr. Dalzell replied that it may need to take place every 2 years. Mr. Wilson asked if this problem will affect adjacent berths. Mr. Titmus replied that Berth 12 is most affected because it is the deep draft berth.

A. Ghirin asked about wildlife impacts. Mr. Dalzell replied work will take place after winter flounder spawning.

Mr. Kunian asked if there is any routine sediment monitoring plan. Mr. Titmus replied that Massport does do a hydrographic survey, and noted a problem in the methodology in that the monitoring boat did not pass closely enough to the fender system, and so did not detect the sedimentation. In the future, hand lead lines will be used to probe areas close to the fender system.

- **Motion made by V. Li and seconded by A. Ghirin to issue the Order of Conditions as written (4/0/0 7:11 PM)**

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**7:12 PM** Request for Amendment to DEP File No. 006-1359 for Pile Installation at Shipyard Quarters Marina, Pier 8, Charlestown, Boston Harbor (LUO)

*Representatives: Seth Lattrell, Bourn Engineering; Geoff Lake, Sea & Shore Contracting; Chris Drew, SQM*

V. Li stated that Bourne Engineering is a dues paying member of her employer, The Boston Harbor Association.

S. Lattrell described the request for amendment, which is to replace three existing piles with new piles. There is no significant wildlife habitat in this location. Due to density of piles, the piles will need to be cut at the mudline rather than pulled and the new piles driven next to them.

G. Lake provided a summary of recent repair activity. Three areas of activity include 1) Posting of 50 piles underneath the pier; 2) Removal of the gazebo frame, which will be repainted and returned; and 3) New timber caps, stringers, and deck installation under the gazebo, and stringer repairs under the walkway between piers 7 & 8. A pedestrian traffic plan was presented to Ms. Krueel. Security fencing and caution tape have been installed around the gazebo area and are performing well.

Mr. Lattrell provided an update on the project schedule, which is an 88 week schedule based on timely permit approval. Chapter 91 licenses have not yet been issued by DEP. Their issuance will constitute week zero.

Ms. Li asked what the schedule will be once Chap 91 issued. Mr. Lattrell replied activities will include engineering review, bid award, mobilization, and submittal & approval by boat manufacturer during first 32 weeks. Phased demolition will occur between weeks 32 and 75.

S. Kunian asked if everything has been submitted to DEP. Mr. Lattrell replied in the affirmative. He is not sure what the status is with the AG's office. DEP will not look at the application until all legal issues have been resolved.

Ms. Krueel stated that the legal issues have not been resolved. The AG's office, at the urging of the judge, attempted unsuccessfully to settle out of court again. The parties will be resuming where they left off in court in the near future. Barbara Mackey added that there was a motion to dismiss from Mr. Oliner, the parties are in the process of answering that motion, and the result will be returning to the judge. Ms. Krueel added that the judges rotate, with different outcomes resulting for the instructions of the different judges. She said it is difficult to speak for the AG's office.

Mr. Kunian asked C. Drew if he knew more about the marina's status. Mr. Drew replied that legal issues are handled in the New York office.

Ms. Li asked about trash removal and storage. Mr. Drew has been working with the owner, Charlie Larner. Heavy winds have contributed to loss of portions of the dumpster enclosure, but they intend to replace the whole thing. They are currently accepting bids to replace the enclosure.

Mr. Kunian asked why the dumpster hasn't been fixed since we've been dealing with it for some time. Ms. Krueel noted that the original problem with the floor had been fixed, but ongoing repairs have been necessitated by the high winds. Mr. Drew confirmed that the dumpster is located in an area with high winds and the fence posts are getting worked out of the concrete, which is why repair is no longer an option and it must be replaced.

Mr. Kunian asked how clean the dumpster is on an ongoing basis. Ms. Krueel stated the owner had been cleaning it during her site visit. Lois Siegelman stated cleanliness varies day by day. Friends of the Charlestown Navy Yard and the Charlestown Neighborhood Coalition began speaking to Mr. Larner about the dumpsters before the restaurant even opened. They determined that if the marina owner wouldn't take responsibility for it, it would be up to Mr. Larner. At that time Mr. Larner promised to replace the enclosure with something better. It has been an issue since off and on. The restaurant has been open since August.

Mr. Kunian stated this should have been done months ago. Mr. Chris stated they have experienced multiple bouts of 30mph winds over the winter. The enclosure has been repaired as needed. Mr. Kunian requested the

proponent return next month to provide an update with the restaurant owner. He stated he does not have a lot of confidence in SQM's New York audience.

Ms. Siegelmen reiterated that Mr. Drew has done all he can, and has been stymied by the owner. Mr. Kunian said that the comments should not be taken personally. There is a long unpleasant history with Mr. Oliner.

Ms. Li referred to the draft minutes from March 5, 2014 discussing the proposed maintenance plan and conditions for DEP File No. 006-1359. Ms. Li is shocked that the restaurant owner is not present tonight. She asked when the dumpster on Pier 6 will be replaced. Mr. Drew stated that Mr. Oliner and Mr. Larner had walked the site on Sunday, and a decision should be made by Monday or Tuesday. Mr. Larner wants it installed within a week.

Mr. Kunian asked Mr. Drew to ensure Mr. Larner would join him in his presentation next month. Mr. Drew stated Mr. Larner had planned to come to tonight's hearing, but had to bow out at the last minute.

Ms. Li asked about snow removal. Mr. Drew replied that SQM plowed both piers as well as the walkways in front of the bath house and pier 8. They did not handle between piers 6 and 8. An individual was hired to do the plowing. Plowing was done throughout the storm to avoid having to plow more than 4 inches at a time. Stockpiled snow was left on the pier, and not plowed into the harbor.

Ms. Li stated that the Commission had approved a snow maintenance plan. Ms. Krueel clarified that submission of the plan was accepted, but not officially approved. After the repair work is complete, we will resume discussion of the plan with Mr. Oliner to ensure that it covers all properties in his ownership. The City of Boston's Law Department has advised the Commission that this is the best way to handle the situation. Mr. Oliner has recently been in court with Parris Landing and had asked the AG's office to step in, and the AG's office has declined.

Ms. Li proposed action on the amendment request currently before the Commission. She suggested dealing with snow and other issues after a motion is passed.

Barbara Mackey asked where the three piles will be located. Mr. Lattrell noted that the plan was provided to the condo owners and will be located within the hatch marks on the plan. Ms. Mackey stated she has not received abutter notification. Mr. Lattrell explained that the same procedure and abutter list was used for this amendment as for the original NOI. Ms. Krueel confirmed that as per the City's Law Department, only the condo association must be notified, not each individual condominium owner.

Ms. Siegelman asked if the supports under the Harborwalk between piers 7 & 8 need to be replaced. Mr. Lake replied that the decking will be opened up, leaving room for the public to pass, the stringers will be replaced, and the decking will be replaced.

Mr. Kunian asked the public if they had any concerns about the pilings. Ms. Mackey suggested that Shipways Condominium care of Lundgren Management has not been notified. Mr. Lattrell produced the certified mail documentation dated April 15<sup>th</sup>.

Mr. Wilson noted there were no conditions in the draft relating to time of day restrictions on pile driving. He asked if any response was received from the association. Mr. Lattrell replied no.

Mr. Lake discussed work hours of between 11am to 3pm for pile driving. Mr. Lattrell noted noise impact will be minimal due to use of a vibratory hammer, rather than an impact hammer. Mr. Lake stated the work will take place over 1 day.

Ms. Mackey stated that she wasn't aware of the work on the bridge path. Mr. Lattrell replied it had been included on the plan set with the original NOI. The only modification from the NOI filing is driving of 3 piles rather than posting. A memo outlining the findings of the report as well as the proposed work was submitted with the NOI.

- **Motion made by V. Li and seconded by A. Ghirin to issue the Order of Conditions with the following amendment (4/0/0 7:45 PM):**
  - **Pile driving shall take place between 9am and 3pm to reduce the potential adverse noise impact to abutters.**

- Status Update: Shipyard Quarters Marina

On behalf of Dick Mulligan of the BRA, who could not attend tonight's hearing, Ms. Krueel read the invoice from BRA for snow removal at SQM dated December 26, 2013 for services rendered during winter 2012/2013 in the amount of \$32,750. To date, \$72,750 is owed for snow removal services rendered from 2010 through winter 2013. This does not include snow removal from winter 2013/2014. This invoice has been mailed to Mr. Oliner and remains unpaid.

Ms. Li asked if the Commission has the authority to collect these fees. Ms. Krueel replied that it does not. Only the BRA can collect these fees. Ms. Li asked if Mr. Lattrell has a copy of the invoice. Ms. Krueel stated she will email him a copy.

Ms. Li asked if the Commission is satisfied with the method of snow removal outlined in the maintenance plan. She does not want the snow going into the resource area. Ms. Krueel stated that the proposed method, which involves leaving the snow on the pier, is not in question. The issue is that Mr. Oliner is not taking responsibility for snow removal along the entire length of Harborwalk for which he is responsible. If he chooses to have a third party perform snow removal services, that is his choice. However, we believe that as the property owner, he is ultimately responsible for the snow removal. Mr. Oliner has not quite committed to this yet. The proposed method of snow removal is appropriate, and snow plowed from a pier may remain on the pier to melt. No sand or salt is used on decking. Landside snow may not be plowed into the harbor; rather snow melt must be directed away from resource areas, preferably into vegetated areas. As Mr. Drew indicated, SQM plowed snow from certain locations and not others, and that is the crux of the issue.

Ms. Li asked about the gazebo. She noted that the plan is to barge it to East Boston to be sanded and painted. She asked if it would be returned to Pier 8. Mr. Lake replied it would be re-installed in the exact same location. Ms. Li asked how long this would take. Mr. Lake anticipates that the sanding and painting will take a week once the gazebo is brought to Amex, a coating specialty company located in the Boston Harbor Shipyard. It will probably be transported next week. Once the repair under the gazebo is complete, it will be put back in place (within three weeks). Ms. Li asked for status photographs-wherever the gazebo may be-at the May 21<sup>st</sup> hearing. Mr. Lake agreed.

In one month, return w/ restaurant owner to report on trash situation with pictures of completed work.

Ms. Siegelman has noticed many boards broken in the Harborwalk, especially at Pier 6, and wondered if they have been repaired. Mr. Drew replied that all broken boards have been replaced as of today. All decking will be replaced from the entrance of the tavern to Parris Landing on the north side within a couple of months, after the boardwalk next to bathhouse at Pier 8 is completed.

Ms. Li asked Mr. Drew and Ms. Siegelman to walk the area together. Ms. Siegelman and Mr. Drew replied that they regularly communicate about this. Mr. Drew periodically checks in with Ms. Siegelman and Ms. Mackey. Ms. Mackey noted that Mr. Drew is doing his best with what he's got. Mr. Oliner has never put the appropriate resources into this. Mr. Drew, who is a merchant marine, is pounding boards, which is not appropriate. A contractor needs to be hired to do the job right. Bourne's initial survey was light on identification of tripping hazards and quality of boardwalk itself. All the focus was, as it should have been, on the underpinings. But the boardwalk needs to be addressed holistically.

Mr. Kunian replied there is nothing we can do to force Mr. Oliner to devote resources to proper maintenance. If pictures show a hazard, it ought to be reported to the City.

Elaine of Constellation Wharf noted that the small replacement boards curl and create tripping hazards. The entire long board needs to be replaced. Patch work is not appropriate. Mr. Kunian suggested reporting this to ISD. Ms. Li asked if there's some ADA standard that should be met. Mr. Ghirin suggested a conversation with code enforcement. Ms. Li acknowledged that Mr. Drew is in an awkward situation as the messenger, but is working hard and trying the best he can with what he's got. It would be useful if ISD can tell Mr. Drew what is required.

Ms. Siegelman has spoken with the CEO of Spaulding, who is distressed with the situation with the Harborwalk.

Mr. Ghirin asked if BRA has an enforcement role. Ms. Li replied that they do not.

Mr. Wilson suggested using the Citizens Connect app. The public has done that.

The proponent agreed to return to the May 21<sup>st</sup> meeting.

- Request for Certificate of Compliance for DEP File No. 006-1157 from Boston Harbor Island Alliance Rinse/Changing Station, Spectacle Island

Ms. Krueel passed around a photo of the completed rinse station and described the project. She stated that all conditions had been met with the exception of filing of the final stamped plan set, which will be submitted within the next few weeks.

- **Motion made by V. Li and seconded by M. Wilson to issue the Certificate of Compliance contingent upon receiving stamped plans (4/0/0 8:05 PM)**

- Request for Certificate of Compliance for DEP File No. 006-1236 from Boston Harbor Industrial Development, LLC for Reserved Channel Borings

Ms. Krueel described the project and stated that all conditions had been met. This was related to the improvements for DEP File No. 006-1264 Pappas Way, which has been completed.

- **Motion made by A. Ghirin and seconded by S. Kunian to issue the Certificate of Compliance (4/0/0 8:06 PM)**

- Request for Certificate of Compliance for DEP File No. 006-1300 from Boston Harbor Industrial Development, LLC for Condor St Remediation

Ms. Krueel described the project as remediation for the improvements at Pappas Way and stated that all conditions had been met. This was a cleanup of the Condor St Overlook Urban Wild to remove debris. She passed around before and after photos of the site. Mr. Kunian stated this project is one of the Commission's achievements.

- **Motion made by V. Li and seconded by A. Ghirin to issue the Certificate of Compliance (4/0/0 8:10 PM)**

- Ratification of Emergency Certification from Massport for Borings & Fender Repair at Conley Terminal, South Boston, Reserved Channel

Ms. Krueel explained that this work was related to the NOI that was approved this evening.

- **Motion made by M. Wilson and seconded by A. Ghirin to ratify the Emergency Certification (4/0/0 8:10 PM)**

- Quarterly Administrative Approval Report

Ms. Krueel explained that this is the second quarterly report that she has prepared. No vote is required. Ms. Li asked why administrative approvals are given for fairly large projects. Ms. Krueel explained her administrative approval policy, which is to approve requested changes that do not increase or change impacts to resource areas, and that do not seem that they would have impacted the Commission's original vote in any way. If there are increases or changes to resources areas as a result of a proposed change, she advises the proponent to seek an Amended OOC.

- Review of Minutes: 2/19/14, 3/5/14, 3/19/14, 4/16/14

- **Motion made by V. Li and seconded by A. Ghirin to adopt the minutes of the February 19, 2014 minutes as amended (4/0/0 8:12 PM)**
- **Motion made by V. Li and seconded by A. Ghirin to adopt the minutes of the March 5, 2014 minutes as amended (4/0/0 8:14 PM)**
- **Motion made by M. Wilson and seconded by A. Ghirin to adopt the minutes of the March 19, 2014 minutes as written (3/0/1 8:14 PM)**

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- **Motion made by V. Li and seconded by A. Ghirin to adjourn the meeting (4/0/0 8:15 PM)**

Respectfully submitted,

*Stephanie Kruel*

Stephanie Kruel  
Executive Secretary