COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
FINAL MINUTES OF (VIDEO CONFERENCE) PUBLIC MEETING – 24 September 2020

MEMBERS PRESENT (determined by roll call):

Jack Chapin (Designee of the Director of Environmental Law Enforcement)
Michael Driscoll (Designee, Director of DCR Division of Waterways)
Mark McClanan (Dive Community Representative)
Graham McKay (Marine Archaeologist)
Jonathan Patton (Designee of Brona Simon, Executive Director of the Massachusetts Historical Commission)
Dan Sampson (Designee of Lisa Berry Engler, Director of Coastal Zone Management)
Linda Santoro (Designee of Brona Simon, State Archaeologist)
John Warner (State Archivist)

David Robinson, Director (Staff for the Board)

MEMBERS ABSENT (determined by roll call):

none

PROCEEDINGS:

The public meeting of the Massachusetts Board of Underwater Archaeological Resources (BUAR) was convened at 12:30 PM on September 24, 2020, via Zoom's on-line video-/tele-conference remote-access meeting platform, by BUAR Director, David Robinson (Dave R), with a quorum of all current members of the BUAR in attendance and MassBays' Executive Director, Pam DiBona, serving as co-host.

Dave R stated that the purpose of the regularly-scheduled public meeting was to conduct the BUAR's business that requires the involvement of the full board.

Items on the agenda included**:**

- Approval of the May 28, 2020 BUAR meeting's minutes
- Director's report
- Board Member reports
- Summary of the BUAR's Public Engagement Activities
- Old Business – involving the review and consideration for approval of BUAR permit renewals and/or administrative extensions, and
- New Business – consisting of the review and consideration for approval of new BUAR permits.

Dave R explained that meeting via remote-access was necessitated by the Baker-Polito administration's March 10, 2020 Executive Order declaring a State of Emergency in response to the COVID-19 outbreak, and is enabled by the administration's subsequent Executive Order of March 12, 2020, modifying certain requirements of the Open Meeting Law. These modifications allow public bodies, like the BUAR, to carry out their responsibilities while adhering to public health recommendations regarding social distancing. With this current State of Emergency, and the physical closure of state offices, including those of the BUAR and its administrative host, MA CZM, non-emergency executive branch employees have been directed to work remotely, and where possible, to use available telecommunications technology to conduct agency business activities normally done in person.

Dave R reported that BUAR staff have been working remotely since March 16, 2020. All BUAR business and communications are currently being conducted primarily via email, supplemented by on-line video-conferencing, limited phone calls, USPS mailings, and weekly transmittals of BUAR mail from MA CZM's offices to BUAR's remote work location.

Dave R further noted that public bodies like BUAR are presently relieved from the requirement in the Open Meeting Law that meetings be conducted in a place that is open and physically accessible to the public, provided that BUAR makes provisions to ensure public access to the deliberations of the BUAR through adequate, alternative means, such as providing public access through telephone, internet, or satellite-enabled audio- or video-conferencing, or any other technology that enables the public to clearly follow the proceedings of the BUAR in real time. In addition, all members of the BUAR may participate in a meeting remotely and the Open Meeting Law's requirement that a quorum of the BUAR and its chair be physically present at the meeting location is suspended.

All other provisions of the Open Meeting Law, such as the requirements regarding posting notice of meetings and creating and maintaining accurate meeting minutes, as well as the limited, enumerated purposes for holding an executive session, remain in effect and are being followed by the BUAR.

Dave R introduced and thanked Ms. DiBona, and welcomed Linda Santoro as the BUAR's newest member. Linda is an MHC staff member who will serve on the Board as the designee of Brona Simon, State Archaeologist. Dave R then welcomed all of the other BUAR members, permittees, and members of the public to the video-conference. Video-conferencing "ground-rules" for the meeting were reviewed and Dave R informed the BUAR members that all items being voted on by the Board would be done by a "roll-call vote" as required for the remote-access video-conference meeting format.

1. MINUTES

A. Minutes of the May 28, 2020 Meeting of the Board

Dave R asked the Board if they had any comments or corrections to the minutes of the public meeting held on May 28, 2020. There were no comments or corrections to the minutes.

John Warner moved to accept the minutes of the May 28, 2020 public meeting. Michael Driscoll seconded. Unanimous in favor by roll-call vote. So voted.

***Change in the Order of Business

Due to time constraints of several Board members, the Director, as Chair, changed the order of business to move directly to Old Business and New Business, followed by the Director's Report, Board Member Reports, and a summary of the Board's Public Engagement Activities since its previous (May 28, 2020) meeting.

2. OLD BUSINESS

A. Gray & Pape, Inc.

Dave R reported that Gray & Pape, Inc.'s Special Use Permit (17-003) for their Vineyard Wind Project area in Barnstable, Martha's Vineyard, Nantucket and Yarmouth was up for renewal. Gray & Pape, Inc. had not submitted their renewal application and annual report; however, they did communicate with the Board regarding this permit's renewal and requested an extension. Dave R noted that it has been the Board's practice to grant up to two extensions under these circumstances and that this would be the first extension for this permit.

Dave R further noted that a requirement of all BUAR Permits is an annual report. The BUAR requested as a special condition of this extension of Special Use Permit (17-003) that Gray & Pape include in their annual report submitted with their renewal application the inventories, descriptions, and mapped locations of underwater archaeological resources and submerged paleolandscapes that were identified within just the state waters portion of their BUAR Special Use Permit area, as well as their recommendations for the avoidance and/or mitigation of impacts to these resources and submerged paleolandscapes, which are to be developed in conformance with the requirements of the Board's *Policy Guidance for Establishing Shipwreck and Underwater Resource Avoidance Protection Plans*.

Ms. Kimberly Smith and Dr. Amanda Evans from Gray & Pape, Inc. were in attendance to represent this permit application. Gray & Pape, Inc. indicated they understood the special condition for the extension required by the Board. There was no further discussion.

Michael Driscoll moved to extend the expiration date of Gray & Pape, Inc.'s Special Use Permit (17-003) for the Vineyard Wind Project Area in Barnstable, Martha's Vineyard, Nantucket, and Yarmouth, with all the standard and special conditions in effect, until the next meeting of the BUAR, scheduled for December 3, 2020. Jonathan Patton seconded. Unanimous in favor by roll-call vote. So voted.

B. The Public Archaeology Laboratory, Inc. (PAL)

Dave R reported that the PAL's Special Use Permit (16-003) was up for renewal. While PAL had not submitted their renewal application and annual report they did communicate with the BUAR staff regarding this permit's renewal and had requested an extension. Dave R noted again that it has been the BUAR's practice to grant up to two extensions under these circumstances and that this would be the first extension for this permit.

Mr. Waller from PAL was not in attendance to represent this permit application. There was no further discussion.

Michael Driscoll moved to extend the expiration date of PAL's Special Use Permit (16-003) for the New Bedford Harbor Superfund Site in Acushnet, Fairhaven, and New Bedford, with all the standard and special conditions in effect, until the next meeting of the BUAR, scheduled for December 3, 2020. Graham McKay seconded. Unanimous in favor by roll-call vote. So voted.

In addition to the extension of PAL's Special Use Permit 16-003, Dave R acknowledged for the record the natural expiration and completion of all permit requirements for PAL's Special Use Permit 19-003 for the Jones River Restoration Walkover/Monitoring Project in Kingston, MA.

C. J. Nicholas Snyer

Dave R reported that J. Nicholas Snyer's Excavation Permit (11-002) for his Gloucester site in Gloucester was up for renewal and that Mr. Snyer had submitted a complete renewal application in accordance with the Board's regulations. Dave R noted that the renewal included two requests:

> 1) Permission from the Board to use a prop-wash deflector for excavating test pits to access targets determined by probing to be buried beneath 4 ft or more of overburden; and
>
> 2) Permission from the Board to transport small, low-value, diagnostic artifacts to the Polk County and Brevard Community College Labs of Professor and Project Conservator, Scott Herber, in FL, for interim conservation/curation, identification, and use by Professor Herber for academic teaching purposes.

Project Director, Gary Esper, and Project Partner, Matthew Art, were in attendance to represent the permit renewal application. Mr. Esper gave a brief summary of project activities conducted during the previous permit year. Dave R noted that there was precedent for the Board to allow prop-wash deflectors to be used for removing thick layers of sand overburden during Board-permitted site excavations. Regarding the requested artifact transfer, Dave R noted that the Board's approval of the physical transfer of any artifacts out-of-state, prior to the completion of the project and the final disposition of the project's recovered assemblage, would need to be temporary and would require annual review and renewal as a special condition of the permit. Further, prior to the Board's approval of the temporary transfer, the Board must receive a photographic log and inventory of the selected artifacts and a completed chain-of-custody form (provided by BUAR) documenting the temporary transfer. There was no further discussion.

Jack Chapin moved to renew J. Nicholas Snyer's Excavation Permit (11-002) for the Gloucester site in Gloucester, with all the standard and special conditions, including permission from the Board to: a) use a prop-wash deflector for excavating test pits to access targets determined by probing to be buried

beneath 4 ft or more of overburden; and b) transfer small, low-value, diagnostic artifacts to the Polk County and Brevard Community College Labs of Professor Scott Herber in FL for interim conservation/curation, identification, and temporary use for academic teaching purposes upon the BUAR's review and approval of a photographic log and inventory of the artifacts and a completed chain-of-custody form documenting the temporary transfer. This permit (and the temporary transfer of custody of select artifacts to Professor Herber) will be in effect for the period of one year, retroactive to May 28, 2020. John Warner seconded. Unanimous in favor by roll-call vote. So voted.

D. Neil Good

Dave R reported that Neil Good's Reconnaissance Permit (19-002) for his Waquoit Bay site in Falmouth and Mashpee was up for renewal and that Mr. Good had submitted a complete renewal application in accordance with the Board's regulations.

Mr. Good was in attendance to represent his permit application. Mr. Good summarized his coordination with staff at Waquoit Bay National Estuarine Research Reserve and work on the project during the previous permit year. Dave R asked Mr. Good if he had access to acoustic survey instrumentation (e.g., sidescan sonar) for use on the project. Mr. Good answered that he did not and would instead be using a deep-penetration metal detector that he was building and underwater video and still photography. Dave R requested that Mr. Good inform the Board when his Falmouth Public Library (virtual) presentation on his project is scheduled, so that BUAR members could attend. Mr. Good confirmed that he would. There was no further discussion.

Michael Driscoll moved to renew Neil Good's Reconnaissance Permit (19-002) for the Waquoit Bay Site in Falmouth and Mashpee, with all the standard and special conditions, including coordinating his activities with the Department of Conservation and Recreation [DCR] staff at the Waquoit Bay National Estuarine Research Reserve and maintaining regular communication with the DCR State Parks Archaeologist, the Tribal Historic Preservation Officer for Mashpee Wampanoag Tribe, and the Tribal Historic Preservation Officer for the Wampanoag Tribe of Gay Head [Aquinnah]), in effect for the period of one year, retroactive to May 28, 2020. Dan Sampson seconded. Unanimous in favor by roll-call vote. So voted.

E. Robert Wells

Dave R reported that Robert Wells's Reconnaissance Permit (18-001) for his King's Cove site in Weymouth/Quincy was up for renewal. The BUAR had voted during its May 28, 2020 meeting to extend the expiration date of Mr. Well's permit until the September 24, 2020 meeting to give him additional time to prepare and submit a more detailed methodology for reconnaissance level field survey as a supplemental part of his renewal application. Submittal of a more detailed methodology prior to conducting any reconnaissance-level fieldwork within the permit area has been an as yet unmet condition of the BUAR's initial approval of Mr. Well's permit application in 2018 and of its renewal in 2019.

Mr. Wells submitted to BUAR two drafts of a detailed methodology and communicated with BUAR staff about the drafts. In a telephone conversation with Mr. Wells, BUAR staff recommended modifying the methodology to include BUAR regulations-defined reconnaissance activities beyond monitoring, such as documentary research and small scale non-disruptive field investigations to locate and identify underwater archaeological resources within the permit area. During his communications with BUAR, Mr. Wells expressed concerns about the site's security and keeping the site's information confidential. He reported that he had engaged the Weymouth Harbormaster to inform him about his permit area and requested the Harbormaster not allow digging to occur within it (Mr. Wells had observed people shell-fishing within his permit area). Mr. Wells requested BUAR provide security for the site for two months while he worked towards obtaining the necessary resources to support his application for an Excavation Permit. BUAR staff advised Mr. Wells that concerns about site security without having yet conducted the necessary reconnaissance fieldwork to: a) identify a site of established significance warranting protection, and; b) to define the vertical and horizontal boundaries of the site to be protected, might be premature. Dave R noted that BUAR gave similar advice to Mr. Wells when his permit was initially issued in 2018. The Board's MA Environmental Police designee had also informed Mr. Wells at that time that there were

no resources to mobilize to provide site protection and suggested that Mr. Wells not publicize the project as a means of protecting the site.

Dave R itemized several concerns BUAR staff had regarding Mr. Well's permit-related activities (i.e., the continued absence of a detailed methodology to conduct archaeological reconnaissance fieldwork activities beyond monitoring; demonstrated financial ability to carry the project plan to completion; an apparent misunderstanding of the rights and privileges that a reconnaissance permit from the BUAR does and does not convey; concern about site security prior to a site of significance being identified and delimited through archaeological reconnaissance activities; and the intent to apply for an BUAR Excavation Permit when reconnaissance-level field activities have yet to be proposed, approved, or performed.

Mr. Wells was in attendance to represent his permit application. Each of the concerns were discussed. Dave R and Board members Jack Chapin and Dan Sampson provided clarification and comments about permit authority, site confidentiality, site security, public access, fishing rights and restrictions, and the importance of conducting archival and field research to support or refute hypotheses about the age, types, and extent of underwater archaeological resources that may be in the permit area and warrant protection and, possibly, Excavation Permit-level investigation. Board member, John Warner, provided advice regarding next steps and recommended BUAR staff provide Mr. Wells with a template or examples of the typical activities included in detailed field plan methodologies of other successful reconnaissance permittees' applications to use as a guide. There was no further discussion.

John Warner moved to extend the expiration date of Mr. Wells's Reconnaissance Permit (18-001) (a second and final time) with all the standard and special conditions in effect, until the next meeting of the Board, scheduled for December 3, 2020, to give Mr. Wells more time to meet the Board's condition that a more detailed methodology be submitted prior to conducting any reconnaissance-level fieldwork within the permit area. Jack Chapin seconded. Unanimous in favor by roll-call vote. So voted.

3. NEW BUSINESS

A. AECOM

Dave R reported that AECOM submitted a complete application and requested supplemental materials for a Special Use Permit for the archaeological assessment of the Section 56 Water Main Saugus River Crossing Project, Lynn and Revere. BUAR provisionally granted Special Use Permit (20-002) to AECOM on September 17, 2020.

Mr. Jean Pelletier and Mr. Edward Morin of AECOM were in attendance to represent this permit application. Mr. Pelletier provided a brief summary of the planned work to be done as part of the project area's archaeological assessment. Dave R acknowledged that AECOM's plan to integrate the marine and terrestrial archaeological assessments for the project represented an optimal approach. There was no further discussion.

Michael Driscoll moved to approve for the period of one year, effective today September 24, 2020, AECOM's Special Use Permit (20-002) for the Section 56 Water Main Saugus River Crossing Project in Lynn and Revere with all the standard and special conditions in effect. Graham McKay seconded. Unanimous in favor by roll-call vote. So voted.

B. The Public Archaeology Laboratory, Inc. (PAL)

Dave R reported that PAL submitted a complete application for a Special Use Permit for the archaeological survey of the Childs River Restoration Project area in Falmouth and Mashpee. BUAR provisionally granted Special Use Permit (20-003) to PAL on September 18, 2020.

Ms. Suzanne Cherau of PAL was in attendance to represent this permit application and provided a brief summary of the planned work. There was no further discussion.

Jonathan Patton moved to approve for the period of one year, effective September 24, 2020, PAL's Special Use Permit (20-003) for the Childs River Restoration Project in Falmouth and Mashpee with all the standard and special conditions in effect. Michael Driscoll seconded. Unanimous in favor by roll-call vote. So voted.

C. Gray & Pape, Inc.

Dave R reported that Gray & Pape, Inc. submitted a Special Use Permit Application for the archaeological survey of the Vineyard Wind Connector 2 Offshore Export Cable Corridor Project. Gray & Pape, Inc.'s Ms. Smith and Dr. Amanda Evans were in attendance to represent this permit application and provided a brief description of the planned survey.

Dave R noted that BUAR's Special Use Permits address underwater archaeological investigations in MA waters associated with the environmental review and public planning of offshore projects, or other scientific purposes and that the project area of potential effect (APE) is the study area used solely for defining the boundaries of Special Use Permit areas. Given that the study area map included in the application for the Vineyard Wind Connector 2 Offshore Export Cable Corridor project indicated it would be the same area as Gray & Pape, Inc.'s existing Special Use Permit 17-003 for the first Vineyard Wind project, the Board members did not want to discuss formal approval of the permit without having an opportunity to clarify with Gray & Pape, Inc. and Vineyard Wind the boundaries of the new permit area. Consequently, it was determined that the Board would move to table consideration of the application's approval until additional information is received from Gray & Pape, Inc.

John Warner moved to table consideration of a motion to approve a new Special Use Permit for the marine archaeological survey of the until questions about the Vineyard Wind Connector 2 Offshore Export Cable Corridor project's APE are resolved. Jack Chapin seconded. Unanimous vote in favor. So voted.

4. DIRECTOR'S REPORT

A. MA Ocean Management Plan

Dave R reported that BUAR staff continued to be involved in the updating of the MA Ocean Management Plan (OMP). Work on the OMP draft review document and draft technical report were ongoing through the summer and are scheduled to be completed this Fall.

B. Fieldwork

Steep Hill Beach, Crane Estate, Ipswich – *Ada K. Damon* shipwreck

Dave R reported that on September 23, 2020, the Board received a report from the Trustees of Reservations Crane Estate staff of significant changes and damages to the Steep Hill Beach intertidal shipwreck of the 1875 historical fishing schooner-turned-sand-schooner, *Ada K. Damon*. These damages appeared to have resulted from the unusually high tides and seas caused by offshore passage of Hurricane Teddy. Board staff provided the Trustees with guidance regarding the near-term management of the site and scheduled a site-visit for September 25, 2020, to assess its condition and to conduct low-altitude aerial photographic documentation and mapping of the vessel's scattered remains. This documentation is being conducted with the assistance of Board volunteer, marine surveyor, and licensed quad-copter pilot, Christopher Wright, of CR Environmental, Inc., and, possibly, Board member and marine archaeologist, Graham McKay. Discussion about the disposition of displaced portable elements of the wreck are planned and will be on-going. A status report on this fieldwork will be provided to the Board at the December meeting.

C. Massachusetts Division of Marine Fisheries Aquaculture Permitting Website

Dave R reported that in July of 2020, the Board contributed contents for the DMF's newly-developed Massachusetts Aquaculture Permitting website. The website outlines and provides detailed information on the steps in the permitting and annual reporting processes for aquaculture projects in Massachusetts. Information related to the Board's project review and the importance of avoiding impacts to underwater archaeological resources, fisheries habitats, protected species, and public access of our shared coastal waters is also provided.

D. W. Australia Maritime Museum Workshop on Indigenous Underwater Cultural Heritage

Dave R reported that Board staff was invited to participate in an October 15, 2020 workshop of international group of delegates representing Indigenous communities, industry, researchers, government/regulatory agencies, and consultants who will be discussing the development of principles for the management of Indigenous underwater cultural heritage in Western Australia. Submerged ancient Indigenous sites were recently identified for the first time on the Australian continental shelf by a group of underwater archaeologists led by Dr. Jonathan Benjamin from Flinders University in Adelaide.

5. BOARD MEMBER REPORTS

Linda Santoro provided information on Massachusetts's 39th Annual Archaeology Month. Due to the COVID-19 pandemic, this year's Archaeology Month events are limited to virtual talks, tours, webinars, and other website interfaces that allow online visitors to interact with artifacts, online exhibitions, online videos, and more. A brief list of virtual events highlighting archaeology in Massachusetts is posted on the MHC website. MHC is also encouraging individuals visit the websites of local museums, historical societies, and other cultural institutions across Massachusetts for their online content and programming.

6. PUBLIC ENGAGEMENT ACTIVITIES

A. School Programs

On June 1, 2020, BUAR staff conducted a remote-access Zoom-based after school program for students in grades 3 through 8 participating in the Belmont School System's BASEC (or Belmont After School Enrichment Collaborative) program. The presentation was designed to assist the students in coming up with ideas for their Science Fair projects and focused on the process of how underwater archaeologists develop research questions and the scientific methods and technologies that we use to answer those questions. Archaeological investigations conducted for the BUAR-permitted Project Mishoon in Lake Quinsigamond were used as a case study.

B. North Shore Frogmen Dive Club Presentation

On June 4, 2020 BUAR staff presented "Fearless Devotion: An Accounting of the Sinking and Salvage of the US Submarine *S-4*" as a Zoom-talk to the North Shore Frogmen during a regular meeting of their membership. This is a talk that BUAR gave earlier in the year describing the 1927 loss of the USS *S-4* with all hands in 102 feet of water off of Provincetown after it was accidentally rammed by the U.S. Coast Guard destroyer *Paulding*. The national attention generated by the tragic loss of life a week before the winter holidays led to significant improvements in the operations and safety of U.S. Navy submarine service.

C. MassBays Monitoring Coordinators Network Webinar

On June 17, 2020 BUAR staff presented the webinar "Underwater Archaeological Resources in Massachusetts" as part of MassBays' series of recorded webinars offered to its Monitoring Coordinators

Network. MassBays' environmental monitors work along the state's coast in the intertidal and nearshore shallow waters where there is a significant potential for also encountering underwater archaeological resources. Consequently, it seemed logical for BUAR to engage these additional eyes-in-the-field to alert and inform them about that potential, to provide examples of the kinds of resources they might encounter, and to explain what to do when they found something and how to report it to BUAR using our SHIPS reporting forms. MassBays has a YouTube channel featuring these recorded webinars and we are currently working with them on final edits to the BUAR webinar, so that it can be added to their publicly-accessible archive of presentations.

D. iCRV Radio Interview with the Connecticut State Archaeologist

On September 1, BUAR staff was a guest of the Connecticut State Archaeologist featured on Connecticut's iCRV (internet radio of the Connecticut River Valley) program "Archaeology in Connecticut." Powered by FOSA (Friends of the State Archaeologist - Connecticut), the monthly online radio program features discussions on a variety of topics related to archaeology from experts in the field. Underwater archaeology was the featured topic for September. Shipwrecks, submerged paleocultural landscapes, the differences between archaeology done on land and underwater, and the various technologies underwater archaeologists use for their research were among the topics covered.

The next scheduled public meeting of the Board is 12:30 pm December 3, 2020. This meeting will also be held via remote-access. Permittees and interested members of the public are encouraged to monitor the BUAR webpage's Public Meetings Information section for updates and meeting agendas.

Dave R thanked the Board, the permittees, and the members of the public for their attendance and participation in the meeting, and for their continued effort, cooperation, and patience during these challenging times, and wished everyone good health and safety.

Graham McKay moved to adjourn the meeting at 2:13 PM. Jack Chapin seconded. Unanimous in favor by roll-call vote. So voted.

Respectfully submitted,

David S. Robinson
Director