

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
MINUTES OF PUBLIC MEETING – 31 JANUARY 2008**

MEMBERS PRESENT Kathleen Dolan (Designee of James Hanlon, Director of Environmental Law Enforcement)
Brendan Foley (Marine Archaeologist)
Terry French (Designee of John Warner, State Archivist)
John Hoagland (Dive Community Representative)
Martha King (Director of DCR Division of Waterways)
Lenny Loparto (Designee of Brona Simon, State Archaeologist)
Jonathan Patton (Designee of Brona Simon, Executive Director of the Massachusetts Historical Commission)
Joe Pelczarski (Designee of Leslie-Ann McGee, Director of Coastal Zone Management)
Victor Mastone, Director (Staff for the Board)
David Trubey, Deputy Director (Staff for the Board)

MEMBERS ABSENT: Marcie Bilinski (Dive Community Representative)

PROCEEDINGS:

The public meeting of the Massachusetts Board of Underwater Archaeological Resources was convened by the Director, Victor Mastone at 1:36 PM on 31 January 2008 in the CZM Conference Room at 251 Causeway Street in Boston.

1. MINUTES

A. Minutes 29 November 2007

Victor asked the Board if there were any comments or corrections to the minutes of the public meeting held on 29 November 2007. There were no comments or corrections to the minutes.

John Hoagland moved to accept the minutes of the 29 November 2007 public meeting. Brendan Foley seconded. Unanimous vote in favor. So voted.

2. DIRECTOR'S REPORT

Victor reported that the final version of the amendments to Board's Regulations is awaiting completion of EOEEA review. Unfortunately, there are some DEP regulations ahead of us in the queue. In anticipation of final promulgation, Victor prepared a draft application form for Special Use Permits. He asked the Board members to review and approve the form.

Brendan Foley moved to approve the Special Use Permit application form effective upon promulgation of the regulations establishing the Special Use Permit. Terry French seconded. Unanimous vote in favor. So voted.

3. BOARD MEMBER REPORTS

There were no Board member reports.

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4. SUBCOMMITTEE REPORTS: OUTREACH

A. Massachusetts Archaeological Society and the Archaeological Institute of America

Victor reported that he gave a presentation on BUAR's SHIPS (Shoreline Heritage Inventory Partnership Strategy) initiative to the Worcester chapters of the Massachusetts Archaeological Society and the Archaeological Institute of America on December 7th at the Worcester Art Museum.

B. Massachusetts Archaeological Society (Northeast Chapter)

Victor reported that he attended a presentation by BUAR intern/research fellow Graham McKay on his thesis project on a shipwreck in the Merrimack River to the Northeast chapter of the Massachusetts Archaeological Society on December 11th at R.S. Peabody Museum in Andover. Victor noted that we now know the vessel was a lightship that was renamed the *Elk*, but we are not sure which lightship it is. Contrary to popular belief, it does not appear to be the LV1. At this stage of the investigation, we believe it could be the LV4 or the LV9, both of which were sold out of Woods Hole, Massachusetts in the 1920s to people in the Haverhill area.

C. Boston Sea Rovers Annual Underwater Clinic

Victor informed the Board that the Boston Sea Rovers is holding its 54th Annual Underwater Clinic on March 8-9th at the Fairmont Copley Hotel in Boston. As it has in past years, the Board will have literature for distribution at the Division of Marine Fisheries booth. Vic said that he and David each planned to attend one day of the clinic. It is a good opportunity to meet with the various dive clubs and organizations that sponsor booths at the clinic.

5. OLD BUSINESS

A. Bassings Cove Maritime Association

Victor reported that Bassings Cove Maritime Association (BCMA) had submitted its Excavation Permit renewal application and Annual Report in accordance with the Board's regulations. Henry Lynch was in attendance to represent BCMA.

Mr. Lynch reported that BCMA's site has been sanded over since last April, which has made for a tough field season. They will likely be inspecting the site again in about two weeks to see what the latest coastal storm has done to the sand. Despite the tough field season, BCMA had a terrific year with its educational effort. He reported that Ms. Jackson has presented information on the *Forest Queen* wreck to numerous school groups in coordination with Department of Education curriculum guidelines. He added that BCMA has presented fourteen lectures to children at the Scituate Historical Society's Maritime and Irish Mossing Museum. He estimated that approximately 500 students have gone through the museum. Mr. Lynch noted that BCMA's laboratory will be moving to a building owned by the Historical Society as the town is rehabilitating the present laboratory building at the Marine Park. He emphasized that the main focus of the *Forest Queen* project is the continued outreach effort led by Ms. Jackson and Mr. Mulloy. He hopes that the Board will renew BCMA's permit for 2008.

Victor thanked Mr. Lynch for his presentation and stated that he has received positive feedback from members of the Scituate Historical Society regarding the work of BCMA. Terry French asked Mr. Lynch how many years BCMA has been working with the schools. Mr. Lynch replied that they have been doing the outreach for six or seven years now and have been trying to bring other community schools into the program. He noted that the presentations are not strictly on the shipwreck but incorporate other topics related to local history and maritime life. He added that BCMA has presented information on such topics as aquaculture and the Irish mossing industry. Terry French asked if BCMA targets any of its outreach to senior citizens. Mr. Lynch replied that they invite everyone in the town to come to the presentations.

Kathleen Dolan moved to renew the Excavation Permit (91-001) held by Bassings Cove Maritime Association for its Scituate site with all standard conditions remaining in effect and the additional condition that the permittee submit for Board approval a site assessment and detailed scope of work prepared by the project archaeologist prior to undertaking any site excavation activities relative to the removal of the main conglomerate. Martha King seconded. Unanimous vote in favor. So voted.

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B. James M. Karos

Victor reported that James Karos had submitted his Reconnaissance Permit renewal application and Annual Report in accordance with the Board's regulations for his site in Chelsea Creek. Mr. Karos was in attendance to represent his application.

Mr. Karos reported that the 2007 field season was not as productive as he had hoped due to restricted access to the site by Global Petroleum. He reminded the Board that the site is a secure area and access is by permission only and is dictated by the shipping schedule. Mr. Karos stated he is hoping that publication of his photo mosaic and corresponding article will help him regain access to the site by demonstrating the progress he has made in documenting this shipwreck. This year, he would like to produce a scale drawing using a variety of survey techniques and photograph and draw the sternpost, pintel and other features. If his access to the site remains an issue, Mr. Karos stated he would consider contacting the Coast Guard for assistance. He added that despite his lack of fieldwork this year, he would like to have another year to accomplish these tasks.

Victor told Mr. Karos that he should in no way underestimate the work he has already done and that the photo mosaic is one of the best he has seen. He added that he and Joe Pelczarski had an opportunity to talk to Ron Kenney of Global Petroleum at a recent meeting and that Mr. Kenney was very complimentary of Mr. Karos's work. Brendan Foley asked Mr. Karos if he had sent Global Petroleum a copy of the photo mosaic. Mr. Karos replied that he had not sent the company a finished version, but did send one that was about sixty percent complete. He added that the cost of copying the image is prohibitive. Brendan asked if he had a digital copy of the image. Mr. Karos replied that he does have a jpeg file and would like to work with it in Photoshop to eliminate some of the lines. Victor stated that the Board recognizes the expense of producing copies of the image and hopes that the Maritime Archaeological and Historical Society (MAHS) will be willing to send up copies of the article and mosaic when they are published. He noted that MAHS has been very enthusiastic about the project.

John Hoagland asked if MAHS has done anything to help Mr. Karos with the project other than offering to publish the photo mosaic and article. Mr. Karos replied that he worked with Ray Hayes of MAHS last summer and learned a lot from him regarding underwater surveys. Brendan Foley stated that he wanted to echo Victor's comments that Mr. Karos should not underestimate the work he has completed. He noted that just getting access to the site was a major accomplishment given the security at oil company properties, not to mention the mosaic itself and all of the training Mr. Karos has acquired on his own. He stated that Mr. Karos should be proud of his work.

John Hoagland moved to renew Reconnaissance Permit (06-001) held by James M. Karos for his Chelsea Creek site (Revere/Boston) with all standard conditions in effect and the further condition that the permittee may collect wood samples under appropriate supervision for dendrochronological purposes. Joe Pelczarski seconded. Unanimous vote in favor. So voted.

6. NEW BUSINESS

A. Michael C. Farber

Victor reported that Michael Farber was in attendance to present the Board with information regarding research and a project with which he is involved under the title of "Finding the First Corner Stone".

Mr. Farber introduced himself to the Board as an attorney who has practiced law in West Virginia for twenty-five years. He also introduced Robin Sutton who is a former employee of the US Geological Survey. He began his presentation by stating that the work product is not his own but that of Morse Payne who was formerly an architect. Mr. Payne conducted this research when he was designing a school building on Cape Cod. During this time, he generated several maps, which Mr. Farber presented to the Board. According to Mr. Farber, the research conducted by Mr. Payne strongly suggests that the Pilgrim elders in the 1630s established a land surveying system for mapping Plymouth Plantation, Cape Cod and eventually New England by establishing a permanent survey baseline using two fixed landmarks on Cape Cod Bay between Race Point and Bound Brook at Quivett Creek. Mr. Farber stated that this fixed baseline has been conclusively identified as the actual magnetic north line as it ran between these two locations in 1639. Mr. Farber also maintained that there is an intersecting east/west baseline that originates between Wellfleet and Truro and projects across Cape Cod Bay to its western coast below Manomet Point south of Plymouth. The angle formed by

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the intersection of these baselines formed the center point location that appears to have been used by the Pilgrim elders to establish the original boundaries for the earliest towns of Cape Cod.

Having presented this theory to the Board, Mr. Farber suggested that in accordance with land surveying tradition and oral history, the Pilgrim elders may have placed a permanent stone marker at this base point in Cape Cod Bay to which survey vessels could anchor. He stated that he believes this marker could still exist and be found by remote sensing technology. He noted that recent surveys of Cape Cod Bay have not looked at this area with this potential target in mind. Mr. Farber stated he would like to locate this marker which he believes would be an extremely significant archaeological site. He noted that he has discussed the project with Dr. Rod Mather of the University of Rhode Island who expressed interest in the concept and the significance of such a site. The work would be part of the "Finding the First Cornerstone" project, which is intended to serve an educational project of the Bringing History to Life organization. The goal of the project is to highlight the archaeological history of Cape Cod Bay in terms of the Pilgrims' ability in the fields of navigation, and surveying the shores of the New World. He noted that the Lighthouse Charter School in Orleans has agreed to make this project part of its community partnership project through which the students would work in research teams. Mr. Farber added that he and his associates would like to proceed on this project professionally. After speaking with Dr. Rod Mather and Dr. Robert Ballard about the project and seeing their enthusiasm, Mr. Farber decided to contact the Board for advice and to lend credence to the project. He added that his organization has no pecuniary interest in any site that might be discovered.

Brendan Foley asked Mr. Farber why the early surveyors would not simply anchor at this center point rather than go to the trouble and expense of placing a permanent marker. Mr. Farber replied that from the *Magna Carta* on, there seems to have been an evolving tradition to marking important locations; whether it be a corner or a tree for example, that indicate a boundary. Lenny Loparto noted that this was a tradition for land surveying and would not necessarily pertain to the ocean. Mr. Farber acknowledged Lenny's comment as true, but stated that because the early surveyors were so particular concerning land boundaries it would not be unreasonable to expect they would mark such an important point upon which their surveying system was based. Lenny Loparto stated it would also have been possible, due to the visibility on the Cape Cod Bay, to establish the center point by aligning a vessel with established points on shore. Therefore, there would be no need for a marker on the seafloor. Mr. Farber responded there could be a need for such a marker, particularly if one wanted to return to that center point. Lenny noted that a stone marker attached to a hemp line would likely not survive the harsh winters that were common in the early seventeenth century, especially if the bay was to freeze over. He noted that ocean storms could easily move a stone even the size of a Volkswagen Bug. He asked if the rope were to break where it attached to the stone marker, how Pilgrim elders would have reattached it at a water depth of one hundred feet. Mr. Farber replied that he asked the same question to rope makers in New York who stated the Pilgrim elders would have likely used multiple lines of two-inch diameter, hemp, tarred line. Lenny remarked that hemp line does not last long in an ocean environment and noted that as the tar wears off, marine growth on the line makes it heavy and causes it to sink. Brendan Foley agreed with Lenny's comment and stated that such a line would have to be replaced routinely, perhaps as often as every year. Lenny stated that he found it hard to believe that such an effort to place and maintain a marker of this size and significance to the colonists would not be mentioned in the historical records of Plymouth County. He noted that in past projects in which he has been involved, property markers are described in the historical record in great detail. Brendan added that he would expect even some mention of the maintenance of this line in colonial documents because of the cost involved.

Joe Pelczarski asked Mr. Farber why he assumes the Pilgrim elders used a large ship to survey and not a smaller vessel. Mr. Farber replied that a large boat would allow the surveyors to be higher off the water so they could see further across the bay. The use of a large boat would be necessary particularly at low tide. Joe stated that a smaller boat with a tall mast could achieve the same results.

Mr. Farber stated that Mr. Payne had really hoped to attend the meeting today, but it was not possible. He added that this project has been a dream of Mr. Payne's for many years and that after many hours of planning, they are now at a point where they can get the public involved in the project. He noted that the students of the Lighthouse School are planning to interview local scallop fishermen to see if they are aware of any underwater obstructions in the area. Kathleen Dolan asked Mr. Farber if he has talked to the local lobstermen and informed him that the Lobstermen's Association is meeting this weekend on Cape Cod. Mr. Farber replied that he has not spoken with the area lobstermen. He is focusing on the scallopers because he remembers seeing them out there when he was growing up and thinks that perhaps one of them would recall getting their gear hung up on an obstruction. Joe Pelczarski noted that if fishermen have dragging in that area, it is very possible a stone marker could have been pulled of location and moved several miles.

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Lenny Loparto stated that he believes this is a great project but that it needs more historical research to document that the survey system described by Mr. Farber and the idea that a marker was placed in the bay is accurate. Brendan Foley agreed and added that whether or not there is a marker out there is really irrelevant because the location is theoretical. Mr. Farber acknowledged these comments and conceded that at this time, the documentation is the weakest part of the theory.

John Hoagland stated that so much of the Cape Cod coastline is composed of glacial erratics that with the glacial sheet receding for the past 300 years, there could be hundreds or even thousands of boulders buried under the sand. Mr. Farber acknowledged this point and noted that taking into account the amount of sedimentation that would be expected to have accumulated above the rocks surface since the mid 1600s could help eliminate many stones from consideration. Brendan Foley stated that it should not take more than a few hours to survey this area.

Mr. Farber stated that although he was advised by several people to bypass the Board, he wants to approach this project in a correct manner so that all the work is done on the basis of research and science. He asked the Board what direction he should take at this point and if he should proceed with a reconnaissance permit application or wait for a special use permit. He emphasized that the mission of this project is purely educational and there is no pecuniary interest by him or any of the people with which he is involved. Lenny Loparto commented to Mr. Farber that if he wants to do good archaeology, he should start with the documents. Victor added to Brendan Foley's comment that the search could be more for a theoretical point than actual remains of a marker. He noted that once the point on Cape Cod Bay was tied into the land, there may not have been any reason to go back that location. Mr. Farber acknowledged these comments and replied that he and his associates have only skimmed the surface of the written documentation. Mr. Farber asked the Board how procedurally he can invoke its jurisdiction short of finding the stone and presenting it as demonstrable proof. Brendan Foley asked Victor if it would be possible to offer a reconnaissance permit. Victor stated that from his perspective, the threshold of demonstrable proof has not been met, therefore the Board can not issue a reconnaissance permit at this time. He explained that the current permit system was set up on a resource ownership basis and that is why there is such a strong emphasis on the concept of demonstrable proof. He noted that the special use permit could apply to this project because it is based on the clause of scientific research. However, that permit has not yet been promulgated. He stated that although he recognizes Mr. Farber's interest in working under the jurisdiction of the Board, nothing that has been proposed regarding this project needs a permit. Finding a way to sanction Mr. Farber's research short of issuing a permit or making this a collaborative project is the challenge before the Board. Victor noted that the Board is not prepared to take on this project at this time due to other commitments. Kathleen Dolan asked if the Board could issue a recommendation for the record that Mr. Farber receive a special use permit pending promulgation of the new regulations. Brendan Foley asked if historical documents specifying the placement and or maintenance of the marker described by Mr. Farber would be considered demonstrable proof under the Board's regulations. Victor replied that such documentation would meet the threshold of demonstrable proof, provided it was primary source material and it could be directly tied to a site. Brendan suggested making the permit contingent upon the requirement that additional historical research provides demonstrable proof of the existence of a resource. Victor replied that he did not think a permit could be conditioned that way as providing demonstrable proof is already a requirement. He stated that the Board could make a statement to the effect that the research described by Mr. Farber is worth pursuing. He noted that as of now, the Board has only been presented with secondary literature sources concerning this project. Brendan asked Mr. Farber if he has seen any evidence that the US Coast Survey has ever tied into the point he described. Mr. Farber replied that he has not but believes that once the point served its purpose in establishing other points, it did not get the same level of attention in future surveys.

Terry French asked if this project would qualify for a special use permit once the new regulations are promulgated. Victor stated that he would be willing to issue a provisional permit under the authority granted to him, but ultimately the Board would have to determine if it was an appropriate decision. He asked the Board to consider the direction in which it wants to go. John Hoagland suggested the Board consider providing an official statement indicating its willingness to grant a special use permit for this project when the new regulations are promulgated. This would provide Mr. Farber with some time to conduct additional research. He further recommended the Board stipulate that if additional research provides primary source documentation supporting the described theory, the Board would consider issuing a reconnaissance permit. Victor noted that a special use permit cannot be converted to another type of permit, but that Mr. Farber could reapply. He added that under the special use permit requirements, Mr. Farber could not be the applicant as he is not a qualified archaeologist nor does he represent an archaeological organization.

Mr. Farber asked the Board about the possibility of receiving a preliminary or contingent reconnaissance permit only to expand the remote sensing survey that he believes Dr. Mather or Dr. Ballard are inclined to undertake. Victor

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replied that a permit from the Board is not required for them to conduct a remote sensing survey. Brendan Foley stated there is a good chance this area of Cape Cod Bay has already been surveyed for some other purpose. Victor suggested that the Board express its interest in this project as it involves worthwhile research and that the Board would be willing to review future research. This would give Mr. Farber and his associates what they are looking for in terms of validation. Victor stated that more data is needed in order to determine whether this should be considered an archaeological project despite the potential historical significance of the theorized survey center point. He noted that there might not be any archaeological evidence of the described activity at this spot, but that is not to say the activity did not take place.

Victor offered the following statement to the Board for its consideration:

It is the sense of the Board that it finds the proposed research project, "Finding the First Cornerstone", worthwhile historical research and recommends the proponent pursue further research and encourages the proponent to work with the Board. The proponent is further encouraged to report back to the Board with historical findings to determine if a permit can be issued.

The Board expressed its unanimous consent to the above statement.

John Hoagland moved to adjourn the meeting at 3:16 PM. Terry French seconded. Unanimous vote in favor. So voted.

Respectfully submitted,

Victor T. Mastone
Director