

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
MINUTES OF PUBLIC MEETING – 29 SEPTEMBER 2005**

MEMBERS PRESENT: Marcie Bilinski (Dive Community Representative)
Brendan Foley (Marine Archaeologist)
Terry French (Designee of John Warner, State Archivist)
Lenny Loparto (Designee of Brona Simon, State Archaeologist)
Kevin Mooney (Designee of Michael Misslin, Director of DCR Division of Waterways)
Joe Pelczarski (Designee of Susan Snow-Cotter, Director of Coastal Zone Management)
Victor Mastone, Director (Staff for the Board)
David Trubey, Deputy Director (Staff for the Board)

MEMBERS ABSENT: Ed Bell (Designee of Brona Simon, Acting Executive Director of the Massachusetts Historical Commission)
Kathleen Dolan (Designee of James Hanlon, Director of Environmental Law Enforcement)
John Hoagland (Dive Community Representative)

PROCEEDINGS:

The public meeting of the Massachusetts Board of Underwater Archaeological Resources was convened by the Director, Victor Mastone, at 1:41 PM on 29 September 2005 in the CZM Conference Room at 251 Causeway Street, Boston.

1. MINUTES

A. Minutes of 1 September 2005

Victor reported that the minutes of the public meeting held on 1 September 2005 were ready for review only in draft form. Due to the length of the meeting and the importance of the discussion, he recommended that the Board review the document and submit comments to David for incorporation in the minutes. He noted that the Board would have the opportunity to vote on any proposed amendments that represent significant changes in content at the December meeting.

2. DIRECTOR'S REPORT

A. Resolution recognizing the service of Robert Cahill E. Cahill

In a follow up to his comments at the last meeting, Victor reported that former Director and Board member, Robert Cahill passed away on June 19, 2005. Bob served the Board for many years and as a state representative sponsored the legislation with Sen. Saltonstall that led to the Board's creation. Vic asked the Board to consider a resolution recognizing Bob's contribution to the early years of the Board.

Joseph Pelczarski moved: It is resolved by the Massachusetts Board of Underwater Archaeological Resources to express its appreciation and gratitude to Robert E. Cahill for his years of service to the Board as one of its first members and director. Bob's enthusiasm and active participation in the Board's early years helped to promote the Board's mission and laid the groundwork for the professional Board we have today. Brendan Foley seconded. Unanimous vote in favor. So resolved.

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3. BOARD MEMBER REPORTS

There were no Board member reports.

4. SUBCOMMITTEE REPORTS: OUTREACH

A. Archaeology Month 2005 Event

Victor reported that for this year's participation in Massachusetts Archaeology Month, the Board would again be co-sponsoring an exhibit and lecture with the Newburyport Maritime Society and Public Archaeology Laboratory, Inc. The event, entitled *Voices of the Deep: Underwater Archaeology in Massachusetts and Beyond*, is a two-day event at the Custom House Maritime Museum on October 15-16. Saturday's activities will be geared more for children with hands-on educational exhibits while Sunday's program will consist of lectures highlighting the work of archaeologists, David Robinson, and Deborah Marx and Matthew Lawrence of the Stellwagen Bank National Marine Sanctuary. Victor added that he would also present information on the Board's new outreach program – Shoreline Heritage Identification Partnerships Strategy.

5. OLD BUSINESS

A. Joseph K. Dietlin and Duane J. Rine

Victor reported that he was contacted by Mr. Joe Dietlin of Dietlin and Rine earlier in the month and discussed at length the status of their field investigation. As a result of their recent survey, Mr. Dietlin and his team have located several high intensity magnetic anomalies in their permit area. Hand fanning and probing have proven inadequate to allow further examination of these anomalies due to the gravelly substrate. Mr. Dietlin asked what alternative methods, other than hand fanning and probing might be allowed under their current permit. As the Board's regulations prohibit removal of overburden by any mechanical device, such as an airlift, Mr. Dietlin has requested a change in the status of their permit from reconnaissance to excavation. Victor explained that the Board has several options in considering this request. Essentially, it could deny, table, or approve the request. The approve/deny options require the Board to promptly provide reasons (cause). Further, the Board could condition the permit to prescribe actions it believes are most appropriate. For example, if the Board were to approve the modification request, it could condition it that no work be undertaken until a project archaeologist is named and work plan is submitted. While it might table action until its next meeting on December 1 (barring scheduling a special meeting), it should recognize there are potentially 2 months of diveable field season left in the year. Victor stated that in speaking with Mr. Dietlin, he got the strong sense that even if the Board were to allow a more intensive investigation (i.e., modify to an excavation permit), it could be a short-term change. If the anomalies proved to be modern, the permittee would likely want to renew the permit as reconnaissance rather than excavation.

Victor noted that the Dietlin & Rine permit is not up for renewal until the December 1, 2005 meeting. The permit (00-003) expires on November 30, 2005. No matter what other actions it takes with respect to this permit on September 29, the Board should also act to extend the expiration date until December 1st. Mr. Joseph Dietlin was in attendance to present his request.

Mr. Dietlin presented the Board with a chart showing the locations of two magnetic anomalies within their permit area and screen captures of the associated data. He stated that one of these anomalies represents a consistent change of over 2,500 gammas from the surrounding area. He also presented a copy of an historic sketch created by one of the survivors of the shipwreck for which they are looking. The drawing, which details the ships location at the time of its sinking and the prevailing tidal currents, was made to assist in a proposed salvage attempt shortly after the accident. Mr. Dietlin stated the location of their finds over the past years seems to support the accuracy of the drawing.

Mr. Dietlin reported that he and his crew have attempted to hand fan in these areas of high magnetic anomaly density, but that the overburden is too much. Through the deployment of a Pulse 10 metal detector in

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such areas, they have determined that the source or sources of the magnetic anomalies are approximately 6 feet below the surface of the seafloor. Mr. Dietlin expressed his confidence that after twenty years of work, he and his team are searching in the correct area, but noted that there is a tremendous amount of modern ferrous debris in the permit area. Without the ability to remove some of the overburden, it will be impossible for the team to further investigate these unusually intense magnetic anomalies. Mr. Dietlin added that he is hoping the Board will consider modifying his permit to allow limited excavation.

Victor stated that Mr. Dietlin had shared with him earlier, that his research indicates that the ship for which they are searching carried pig iron as ballast. This fact provides one possibility regarding the source of these rather unusually intense magnetometer readings. Kevin Mooney asked Mr. Dietlin to point out on the chart the two areas in which he is interested in excavating. Mr. Dietlin replied that the two intense targets are located approximately at blocks I-10 and M-12. Kevin asked Mr. Dietlin what technique he and his team would likely utilize to remove the overburden. Mr. Dietlin stated that they would likely deploy a screened water lift to remove the sand. Small rocks would be removed by hand. He added that the overburden seems to be composed of relatively new material and does not appear to be hard packed. Kevin asked how large of an area they are looking to uncover. Mr. Dietlin replied that they would only like to dig a small test pit, probably nothing larger than 8' x 8'. He noted that if they were to come across any cultural material, including pig iron, the excavation operation would cease, the test pit would be back filled, and he and the team would then consider applying for a full-scale excavation permit. Mr. Dietlin added that the ability to excavate test pits at these two locations would enable the team to determine if it is worth taking the project to the next level of permitting.

Brendan Foley asked what type of bottom sediment is present at these two locations. Mr. Dietlin responded that the seafloor in these areas is predominantly composed of sand. Brendan asked if the walls of the proposed test pits would support themselves. Mr. Dietlin stated that the walls will likely not stay in place, but he would rather not use any large structural support such as a cofferdam unless it is absolutely necessary. Kevin Mooney asked what they plan to do with the dredge spoil. Mr. Dietlin stated that the material would be piled adjacent to the pit so it would back fill naturally or could be easily replaced by the divers. Lenny Loparto asked Mr. Dietlin if he planned to recover any artifacts that might be encountered. Mr. Dietlin replied that he would rather not remove any artifacts due to limit conservation facilities. However, if it were determined that such artifacts are too fragile to be reburied, they would likely be recovered and conserved. Lenny expressed his concern that the context in which such artifacts are found, could be destroyed during the dredging operation. Mr. Dietlin recognized Lenny's concern and emphasized that the entire operation would move along at a very slow and methodical pace therefore reducing the possibility that artifact context and provenience would be lost. Victor stated that any artifacts that are encountered should be mapped in situ and noted there should be a screen on the outfall end of the dredge to capture any artifacts that are inadvertently missed. Lenny stated that any potential artifacts that are not detected for whatever reason before they are picked up by the dredge should be saved. Mr. Dietlin agreed with Victor and Lenny's comments and stated that he and his team are currently looking for an archaeologist to help with this aspect of their operation. He emphasized that he and his team plan to do whatever is mandated by the Board and nothing less.

Lenny Loparto asked Mr. Dietlin if he thinks it is a realistic expectation that he can find a qualified archaeologist, have this archaeologist develop a work plan, have the plan approved by the Board and get in the field before the permit expires on December 1st. Mr. Dietlin replied that the biggest factor would be finding an archaeologist that meets the Board's approval. If this does not happen in a reasonable amount of time, then it is very unlikely the rest of the work would be completed on time.

Victor stated that the first thing the Board needs to do is determine whether or not the activity proposed by Mr. Dietlin requires an excavation permit then the Board can condition the change. Kevin Mooney replied that this question has come up in the past and in many ways supports the need for some type of permit that falls between the categories of reconnaissance and full-scale excavation. Victor reminded that Board that creating a new category of permit would likely require a change in the regulations and would take considerable time. Kevin asked if it is possible to convert only a portion of the permit area to excavation and leave the rest subject to the conditions of the reconnaissance permit. Victor replied that under the current regulations, the permit has to be either for reconnaissance or excavation and not both. He noted however, that it is possible to convert the permit from reconnaissance to excavation, but limit where the excavation can take place. Brendan Foley stated that there should be an allowance for a characterization phase in the permitting process prior to excavation. Victor agreed and noted that when the Board was permitting the Whydah Project, it did allow for limited excavation of

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test pits prior to allowing full-scale excavation. Lenny Loparto asked Mr. Dietlin if he is confident that his team will be able to determine the source of the anomaly with one test pit. Mr. Dietlin replied that based on the magnetic data, the anomaly appears to be very large. If a test pit is excavated in the center of the target, it is likely that they will find the source or at least a portion of it. Brendan asked if Mr. Dietlin's team has conducted any probing in the area. Mr. Dietlin responded that because of the large amount of rock in the area, probing was deemed impractical. Joseph Pelczarski asked if the team has considered deploying a sub-bottom profiler. Mr. Dietlin replied that as with probing, the amount of rock in the permit area would greatly limit the penetration of an acoustic signal.

Lenny Loparto asked Mr. Dietlin what else his team plans to do in terms of reconnaissance if the entire permit area has already been surveyed with the magnetometer. Mr. Dietlin replied that they would likely go back and re-survey the area at a slower pace and try to get better readings in the shallow areas by deploying a small inflatable boat to tow the gear. Lenny asked how much of the reconnaissance in the total permit area would be complete following the investigation of the two large magnetic anomalies. Mr. Dietlin replied that there are other targets in the permit area that need to be investigated, but comparatively speaking, they are of lesser intensity and many have turned out to be modern ferrous debris. He added that they are trying to investigate the largest, more promising targets first, but will eventually move on. Kevin Mooney asked if the team is also interested in excavating a test pit in the area represented as block M -12 on the chart provided by Mr. Dietlin. Mr. Dietlin stated that he and his team are interested in the area and would like to excavate there if the Board is in favor. He noted that he would provide the Board with the exact coordinates for both areas. Joe Pelczarski asked if there is any vegetation in the area of the proposed test pits. Mr. Dietlin replied that there is some kelp in the deeper areas, otherwise there is little vegetation.

Victor asked if it was the sense of the Board to modify the status of this permit to allow testing in the two areas presented by Mr. Dietlin, provided the permittee can obtain the services of a qualified marine archaeologist and presents a detailed work plan for Board approval. He added that research and fieldwork completed to date has been very professional and demonstrates a high level of knowledge and skill. Joe Pelczarski stated that if the Board decides to modify the permit, Mr. Dietlin should check to see if a permit is required from the Salem Conservation Commission. Victor replied that it is a standard condition for all permits issued by the Board that the permittee obtain all necessary permits from federal, state and local agencies. Lenny Lopardo expressed his concern that if Mr. Dietlin's plan is to excavate to a depth of approximately 6 ft., there should be a condition in place regarding potential artifacts. Victor acknowledged this concern and stated that the issue should be addressed by the Board's requirement of a detailed scope of work prepared by the project archaeologist. He noted that the Board could specify that the scope of work include a plan for the coincidental recovery of artifacts. Joe Pelczarski asked if the plan should include a requirement for notification of the Board for any discoveries. Victor replied that Mr. Dietlin will have to come before the Board in 30 days to either renew the permit as reconnaissance or excavation at which time he will be required to present an annual report detailing all activity. Lenny Loparto asked Mr. Dietlin when he expects to start the excavation. Mr. Dietlin replied that if the Board votes to modify his permit and approves his archaeologist, his team would get out as soon as the weather permits. He noted that their boat is in the water year round. Kevin Mooney suggested that the Board should include the locations of the two proposed test pits in any motion to modify the permit status and reference the locations to the chart provided by the permittee on this date. He stated that he does not think it is a realistic expectation of the permittee that he will be able to obtain an archaeologist, have the archaeologist develop a work plan for the Board, complete the fieldwork and present the findings by November 1st. He suggested that the Board consider extending the expiration date of the permit to allow Mr. Dietlin and his team time to satisfy the requirements under consideration regarding the modification of the permit from reconnaissance to excavation and to decide whether or not it's worth the time and effort to apply for a full excavation permit. Victor reminded the Board that it has in the past adhered to an internal policy of not extending permits. Lenny acknowledged Victor's remark but stated that in this case it would be the Board that is initiating the extension and not the permittee. Lenny Loparto stated that if the permittee can obtain the services of an archaeologist who meets the Board's approval, it would probably be to the permittee's benefit to reapply for an excavation permit because it would give them the flexibility to investigate any anomalies that they come across. Victor stated that when the permittee renews, there would be a whole new set of conditions as the conditions of a modified permit status would no longer be applicable. Victor stated that if this is the direction in which the Board wants to go, it would have to do consider a motion that would both extend the expiration date of the current permit and modify its status from

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reconnaissance to excavation. He asked if it was the sense of the Board that this is what it would like to do. Brendan Foley replied he believes the Board should consider such a motion.

Kevin Mooney moved to modify the status of the permit (00-003) held by Joseph K. Dietlin and Duane J. Rine from Reconnaissance to Excavation with all standard conditions in effect and the further condition that the permittee submit for approval by the Board's staff prior to any excavation, a detailed work plan developed by the project archaeologist for the excavation of test pits at grid locations I-10 and M-12 (as noted on the chart provided by the permittee on this day) and the treatment of coincidental discoveries, and further the natural expiration date of this permit is extended until January 26, 2006. Terry French seconded. Unanimous vote in favor. So voted.

6. NEW BUSINESS

There was no new business.

Terry French moved to adjourn the meeting at 2:36PM. Brendan Foley seconded. Unanimous vote in favor. So voted.

Respectfully submitted,

Victor T. Mastone
Director