

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
MINUTES OF PUBLIC MEETING – 25 SEPTEMBER 2008**

MEMBERS PRESENT: Marcie Bilinski (Dive Community Representative)
Kathleen Dolan (Designee of Aaron Gross, Director of Environmental Law Enforcement)
Brendan Foley (Marine Archaeologist)
Terry French (Designee of John Warner, State Archivist)
John Hoagland (Dive Community Representative)
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: Martha King, Director of DCR Division of Waterways

PROCEEDINGS:

The public meeting of the Massachusetts Board of Underwater Archaeological Resources was convened by the Director, Victor Mastone at 1:31 PM on 25 September 2008 in the CZM Conference Room at 251 Causeway Street, Boston.

1. MINUTES

A. Minutes of 29 May 2008

Victor asked the Board if there were any comments or corrections to the minutes of the public meeting held on 29 May 2008. There were no comments or corrections to the minutes.

John Hoagland moved to accept the minutes of the 29 May 2008 public meeting. Brendan Foley seconded. So voted.

2. DIRECTOR'S REPORT

A. Boston Harbor Islands Research Cruise

Victor reported that he, David and Claire Dapport, the Board's research fellow, participated in a research cruise on 21 June to investigate a shipwreck believed to be the *Heaton*, an early 20th century lime schooner that sank in the outer harbor. The investigation was organized by Wally Westphal and was conducted from the salvage vessel *King Triton*, the use of which was offered by Dale Freeman. In addition to investigating the wreck, the cruise served to gauge the effectiveness of a potential volunteer archaeological dive team. Divers from the Quincy Police Department participated in the project along with Al Anzuoni of the South Shore Divers scuba center and Michael Prange. Victor noted that while the side scan sonar image of the wreck suggested it was fairly intact, the divers reported that it is very dispersed. He indicated that the team will likely return to the site at a later date.

B. Nantucket Sound Field Operations

Victor reported that he and Claire Dapport conducted field operations on 23 June in Nantucket Sound in support of Ms. Dapport's research. Arne Carr, of American Underwater Search and Survey, provided remote sensing services for this project in the area where historic accounts place the vessel. Unfortunately, there were no targets, however, this survey helped define the search area for future work. Victor noted that he paid for the boat fuel from his personal funds.

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C. Ocean Management

Victor reported that between July and September, he has participated in 45 hours of inter and intra-agency meetings related to the administration's recent ocean management initiative. He is providing data and advice regarding the management of the Commonwealth's offshore cultural resources as well as the use of the Commonwealth's coastal waters by recreational divers to the Social/Recreational Working Group. He developed a preliminary sensitivity map which will be reviewed by a representative of the Massachusetts Historical Commission (MHC) and other individuals such as Arne Carr. He stated that the visual impacts of ocean development is an important issue for the MHC and noted that the Ocean Management Act does not effect the business of the Board and states only that submerged cultural resources should be considered in management and policy decisions.

D. Marine Protected Areas Meeting

Victor reported that he attending the meeting of the Marine Protected Areas Federal Advisory Committee working group in Monterey, CA September 7th-10th. The group is currently working on program evaluation and will be meeting again on November 17th – 22nd.

E. UNESCO Convention

Victor reported that the UNESCO Convention currently has 19 signatory states of the 20 required to be ratified. He noted that Slovenia recently signed in support.

3. BOARD MEMBER REPORTS

There were no Board member reports.

4. SUBCOMMITTEE REPORTS: OUTREACH

A. Bay State Council of Divers

Victor reported that he attended the meeting of the Bay State Council of Divers on June 11th. This meeting focused on, among other issues, the ongoing Gloucester dive flag issue. Due to schedule conflicts, neither Victor nor David was able to attend the meeting on September 10th.

B. TTOR Shipwrecks Detectives Camp

Victor reported that he participated in The Trustees of the Reservation Shipwrecks Detectives Camp at Crane's Beach in Ipswich on July 23rd and August 20th. This educational program is geared for children eight to twelve years of age. Victor's lesson was to include a study of the *Ada Damon* site; however the wreck has sanded over and is too close to the plover habitat.

C. CCNS Lecture

Victor reported that he presented a public lecture at the Cape Cod National Seashore on August 12th concerning the Board's Shoreline Heritage Identification Partnerships Strategy (SHIPS) program and the Newcomb Hollow ship timbers that were visible last winter. Victor noted that the audience of approximately 175 people included Lenny Loparto.

D. MAS Northeast Chapter

Victor reported that he presented a lecture on the Minot's Ledge Lighthouse investigation to the Northeast Chapter of the Massachusetts Archaeological Society on September 16th. He noted that the organization has a very good lecture series and that his presentation was well received. A future presentation of this series will be made by John Steinberg of the University of Massachusetts at Boston detailing his work in Iceland on one of the Saga sites.

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E. CZM Staff Meeting Presentation

Victor reported that he gave a presentation to the staff of the Massachusetts Office of Coastal Zone Management at its meeting on September 23rd. The presentation focused on the role of the Board in the investigation of several shipwrecks discovered during the survey for the Northeast Gateway offshore LNG terminal project and other projects.

F. Archaeology Month 2008

Victor reported that October will be a busy month for the Board as it will be participating in several Archaeology Month programs including the Museum of Science/Archaeological Institute of America Archaeology Fair on October 10th-11th, the Lifetime Learning Seminar in Bourne on October 16th and the Cape Cod Maritime Museum's program on October 25th-26th. Victor noted that Marcie Bilinski has volunteered to assist with some of the events.

5. OLD BUSINESS

A. Gary V. Esper and Alexander G. Bezkorovainy

Victor reported that Gary Esper and Alexander Bezkorovainy had submitted their Excavation Permit renewal application and Annual Report in accordance with the Board's regulations. He added that they have been very good in providing regular, concise updates on their work in the field. Mr. Esper was in attendance to present the permit renewal application.

Mr. Esper reported that everything has been going well with their fieldwork although this month's weather has prevented them from being on site. Much of their field time this summer was spent investigating targets generated by their magnetometer surveys. He stated that they have located numerous artifacts which they believe are from the wreck of a tugboat that was flattened by the Army Corps of Engineers as it was considered a hazard to navigation. He noted that they are no longer using the Pulse-10 metal detector because it became too difficult with the number of lobster traps and other modern ferrous objects that it was detecting. Victor asked Mr. Esper if his team has encountered derelict fishing and lobstering gear. Mr. Esper replied that they have come across numerous pieces of gear. Victor asked if it is difficult to differentiate between artifacts related to the tugboat wreck and those related to the vessel for which they are searching. Mr. Esper replied that once they dive on the targets, it is fairly easy to make that distinction. He added that at the beginning of the season they surveyed the permit area with the magnetometer and generated a list of targets which are now being inspected by divers. They have found that the tugboat artifacts are concentrated in the portion of the permit area where the vessel reportedly sank. He noted that artifact locations are recorded with a GPS.

John Hoagland referenced a section of Mr. Esper and Mr. Bezkorovainy's application that stated artifacts recovered in the course of this project would be conserved and put on display as part their public benefit plan. He pointed out that a previous section of the application regarding the treatment of metal items states that artifacts might be coated with acrylic "to protect them either for display or sale." He asked Mr. Esper if they are planning to sell artifacts. Mr. Esper replied that ultimately, they would like to create a museum through which the history of the vessel would be interpreted. He stated they have no plans to sell artifacts. He added that the language in the application was drawn from different sources and that he did not notice the word "sale" when he put the application together. He stated that it should have been omitted. Victor noted that he and David did not pick up on that either, but that typically no ownership or disposition rights are granted until the project is completed.

Lenny Loparto expressed his concern that by only collecting diagnostic artifacts, the context of surrounding objects would be lost. He asked if Mr. Esper's team is using an airlift. Mr. Esper replied that they used one last season only to expose a small section of a hull in order to determine whether or not it was from the vessel for which they are searching. The team subsequently reburied the section with sand. He added that they are only interested in artifacts that relate to their wreck. Lenny stated that if the team is using an airlift or even hand fanning and only collecting diagnostic artifacts, it is destroying the context around those artifacts. Marcie Bilinski stated that there is really no way around that. Victor asked Mr. Esper if his team is mapping the location of artifacts before they are collected. Mr. Esper replied that his team conducts pre-disturbance photography of every area in which they discover artifacts. Lenny asked Mr. Esper to explain why they are not collecting all the artifacts in a given area as

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opposed to only ones that are diagnostic. Mr. Esper stated that at this time, they are actually not collecting any artifacts until they find enough that they believe are related to the vessel for which they are searching. He added that they take photographs of every metal object they locate and send these photographs to their project archaeologist, Robert Cembrola, who then determines if the object is from the right time period. They have not recovered any artifacts with the exception of the firearm fragment, a photo of which Mr. Esper showed the Board. Victor asked what was around the firearm fragment when it was located. Mr. Esper stated that there were no other objects near it. Victor stated he believes Lenny is concerned that Mr. Esper's team might find an object with other objects near it that they do not consider being diagnostic, but in fact could be. If the divers only recover what they believe to be diagnostic and do not at least map the other artifacts, their context would be lost. Lenny stated that the artifacts left behind might have value to the overall site analysis at a later date even though they might seem insignificant at the time of a dive. He added that when a terrestrial excavation is conducted, archaeologists typically collect all artifacts except for materials that are obviously modern. Victor stated that the scenario about which the Board is concerned would be divers excavating a group of artifacts and having to make a judgment call as to which ones should be collected. He noted that although this has not yet happened, Mr. Esper should work with his archaeologist to develop a plan for dealing with multiple artifact groupings, specifically what should be collected, mapped, etc. Mr. Esper acknowledged the Board's concern and stated he would discuss this issue with his archaeologist.

Kathleen Dolan moved to renew the Excavation Permit (06-002) held by Gary V. Esper and Alexander G. Bezkorovainy for their Salem Sound site with all standard conditions in effect. Marcie Bilinski seconded. Unanimous vote in favor. So voted.

6. NEW BUSINESS

A. Cathrine Macort

Victor reported that Cathrine Macort had submitted a Special Use Permit application to conduct archaeological research activities in support of the Cornerstone Project: Town Cove Cluster. The area covered by this permit consists of Town Cove, Orleans from Rocky Point south. Victor stated that the application, including Ms. Macort's credentials, meets the requirements specified in the Board's regulations and that he provisionally issued the permit on 23 July 2008. He reminded the Board that this is the project about which Michael Farber has addressed the Board on two occasions and for which he submitted incomplete applications. He noted that the most recent application for a Special Use permit contains all the required information, but the work plan needs to be reorganized. Victor added that Ms. Macort has agreed to provide the Board with a more traditionally-written archaeological research design and methodology. Additionally, he has spoken to Mr. Farber regarding the need for Ms. Macort to approve any changes to the work plan in conjunction with the Board. Victor suggested that the submission of a revised archaeological research design and outreach plan be made a condition of granting this permit. He added that the people involved in this project have a tremendous amount of enthusiasm and that Ms. Macort seems to have the ability to balance their enthusiasm with her sound archaeological practice. If she is unable to maintain this balance, she is willing to walk away from the project which Victor stated is what the Board wants in a project archaeologist. He reminded the Board that if Ms. Macort leaves the project, the permit would no longer be valid as it is issued in her name as the project archaeologist despite the other names listed on the application. John Hoagland added that if the proponents switch to a different archaeologist, they would have to reapply for a new permit.

Lenny Loparto expressed his concern that the organization needs to conduct better background research as it does not seem to be aware that it is working on a National Register listed property. The Sea Call Farm was placed on the National Register of Historic Places earlier this summer. He stated that the rocks that are a central part of the project are not below the high water mark. Jonathan Patton noted that any excavation above mean high water would require a permit from the State Archaeologist. Based on his understanding, Ms. Macort does not meet the MHC's requirement to obtain such a permit. Victor added that the work plan accompanying the application was not approved for any work outside of the Board's jurisdiction. Lenny stated that the organization seems to be confused between the idea of a reconnaissance survey and a site examination as it seems to use the terms interchangeably in the application and research design. He also expressed his sense that the justification for dealing with the pile of rocks is weak. He noted that he does not see the connection between these rocks and the boundary of the Nauset Plantation. It is his understanding that when Nauset got its rights to the settlement, the boundary extended closer to Pleasant Bay and that the boundary in the middle of Town Cove was not established until Orleans became the south precinct of Eastham in the eighteenth century.

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Victor stated that it would be help if the Board were to draft a statement that speaks to the concerns of the MHC such as the National Register issue and the potential need for an MHC permit. He added that this statement could be sent to both the project organization and to Ms. Macort. He stated that he believes a lot of what is being said by the organization is being driven by publicity as opposed to activity. He stressed that the organization needs to know about the recent National Register listing of the farm, as it is a standard condition of the permit that when applicable, the permittee must comply with Section 106 requirements. If its work falls within the bounds of a National Register site, the organization will have to coordinate its activities with the MHC. Jonathan Patton asked if the organization receives any state or federal funding. He noted that any project requiring state and/or federal funding/licensing or permitting would trigger MHC review under Section 106 of the NHPA of 1966, as amended (36 CFR 800) and/or Chapter 9, Sections 26-27C (950 CMR 71). Victor replied that to his knowledge, the organization does not receive such funding. Lenny Loparto asked if the Cape Cod Lighthouse Charter School receives any state or federal funding. Victor replied that it would not matter if it did because although it is listed on the application as an affiliate, it is not the applicant. The applicant is only Ms. Macort as she is the project archaeologist. Victor asked Lenny and Jonathan if they would send him an email articulating MHC's specific concerns which would help him craft a response to the organization and Ms. Macort. Jonathan added that the organization should become familiar with MHC's regulations.

Brendan Foley moved to grant Cathrine Macort a Special Use Permit (08-004) for the Cornerstone Project: Town Cove Cluster project area (as specified on the chart included in the application) with all standard conditions in effect and the further conditions that the permittee provide the Board with a revised archaeological research design and consolidated outreach plan, and further, that the permittee consult with the Office of the State Archaeologist to ensure they are in full compliance with M.G.L. c. 9, s. 27C, 950 CMR 70. Terry French seconded. Unanimous vote in favor. So voted.

B. David Trubey

Victor reported that its only other staff, David Trubey, has resigned his position with the Board effective September 30, 2008. He reminded the Board that David had first come to the Board as an unpaid intern, later a paid intern, working on the Board's inventory of naval shipwrecks in Massachusetts waters. This was later the subject of David's MA thesis at the University of Massachusetts at Boston. After graduation, David relocated to the Washington, DC area and worked for the firm of R. Christopher Goodwin and Associates. In late 1999, David returned to the Board as a staff archaeologist and subsequently its Deputy Director. David has been a critical part of day-to-day operations. He will be joining the staff of Fathom Research, LLC. He will be missed by his colleagues at the Board and at the Office of Coastal Zone Management.

Unanimously moved to adopt the following resolution,

Whereas, We consider David Trubey has been an exemplary employee of the Board; and
Whereas, David has resigned his position with the Board; therefore,
Resolved, that the Board recognizes David's service to the Board and the people of the Commonwealth and expresses its sincere appreciation for his efforts and wishes him success in his future endeavors.

Unanimously seconded. Vote is unanimous. So resolved.

Joe Pelczarski moved to adjourn the meeting at 2:12 PM. John Hoagland seconded. Unanimous vote in favor. So voted.

Respectfully submitted,

Victor T. Mastone
Director