

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
FINAL MINUTES OF PUBLIC MEETING – January 27, 2022**

MEMBERS PRESENT (ROLL CALL):

Jack Chapin (Designee of the Director of Environmental Law Enforcement)
Vin Malkoski (Dive Community Representative [Organization])
Mark McClanan (Dive Community Representative [At-Large])
Graham McKay (Marine Archaeologist)
Dan Sampson (Designee of Lisa Berry Engler, Director of Coastal Zone Management [CZM])
John Warner (State Archivist)

David Robinson, Director (Staff for the Board)

MEMBERS ABSENT:

Michael Driscoll (Designee, Director of DCR Division of Waterways)
Brona Simon (State Archaeologist)
VACANT (Designee of Brona Simon, Executive Director of the Massachusetts Historical Commission)

PROCEEDINGS:

This virtual public meeting of the Massachusetts Board of Underwater Archaeological Resources (or the Board or BUAR) was convened by its Director, David Robinson (Dave R), with the assistance of co-host, MassBays Executive Director, Pam DiBona, at 12:31 PM on January 27, 2022, with a quorum of six (6) current members of the Board in attendance.

Dave R stated that the purpose of this regularly scheduled public meeting was to conduct the BUAR's business requiring the involvement of the full Board.

Items on the agenda included:

- Approval of the December 17, 2021 Board meeting's minutes
- The Director's report
- Board Member reports
- Summary of the Board's Public Engagement Activities
- Old Business, and
- New Business.

Dave R explained BUAR staff have been working remotely since March 16, 2020 due to the COVID-19 pandemic. All BUAR business and communications are currently being conducted primarily via email, supplemented by virtual meetings, limited phone calls, hard-copy mailings, and weekly transmittals of BUAR mail from MA Coastal Zone Management's (CZM's) offices to BUAR's off-site telework location. BUAR and CZM staff are currently transitioning to a hybrid Future-of-Work schedule that allows us to work in-person in our offices one day per week. Holding BUAR's meetings virtually through publicly-available, internet-based, remote access "Zoom" technology as an alternative means of meeting was authorized by Governor Baker's Executive Order of March 12, 2020 "Order Suspending Certain Provisions of the Open Meeting Law" (MGL c. 30A, s. 20). This authorization was extended in perpetuity on June 16, 2021 with the Governor's signing into law of "An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency" (MGL c. 20, s. 20). Votes during this virtual meeting will be taken through a roll call, as required by MGL c. 30A, ss. 18-25. Virtual meeting ground-rules and new security precautions were reviewed by Dave R, and Board members, permittees, and members of the public were welcomed to the meeting.

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1. MINUTES

A. Minutes of the December 17, 2021 Meeting of the Board

Dave R asked if the Board had any comments or corrections to the draft minutes of the Board's December 17, 2021 public meeting. There were no comments or corrections to the minutes.

John Warner moved to accept the minutes of the Board's December 17, 2021 public meeting as written. Vin Malkoski seconded. Unanimous in favor by a roll-call vote. So voted.

2. DIRECTOR'S REPORT

A. Format of Future Board Meetings

Dave R noted that prior to the outbreak of the COVID-19 pandemic in March of 2020, the Board's public meetings had always been held in-person at the various BUAR office locations throughout its 49-year history. Since the Board's May 2020 meeting, all of BUAR's regularly scheduled public meetings have been conducted remotely, as permitted by the Baker-Polito administration's March 2020 Executive Order (MGL c. 30A, s. 20), extended in perpetuity by the Governor's signing into law MGL c. 20, s. 20 in June of 2021. With the Governor's May 28, 2021 termination of the March 2020 State of Emergency declaration and his adjustment and rescinding of COVID-19-related Executive Orders, BUAR is once again allowed to conduct its public meetings in-person, while following State and local public health orders related to COVID-19.

In light of these developments, Dave R sought feedback from the Board regarding its preferred future meeting format (i.e., remote access or in-person) and, if in-person, the preferred location for those meetings (i.e., at 251 Causeway Street in Boston until it is vacated by CZM/BUAR sometime this Fall), at EEA's current (and CZM's future) 100 Cambridge Street, Boston office location, or at BUAR's future physical office location in MA DMF's New Bedford offices at 836 South Rodney French Boulevard. Vin Malkoski commented there are multiple in-person meeting spaces available at DMF's offices in New Bedford and in Gloucester, including classroom-sized space in the New Bedford office that could be reserved by coordinating with DMF and UMass-Dartmouth. Graham McKay and John Warner asked about the timing of BUAR's move. Dave R responded that it would be a gradual transition likely taking place over the first half of this year (2022).

Dave R noted the current uncertainty of the exact timing of when BUAR and CZM will be moving to their respective new office locations, and recommended the Board consider and vote on at this meeting whether or not to continue meeting remotely through the end of 2022, and then consider and vote on whether or not to continue meeting remotely beyond 2022 at the Board's December meeting when the 2023 meeting schedule will be taken up and voted on by the Board. There was no further discussion.

Dan Sampson moved for BUAR to continue holding its public meetings of the Board remotely through the end of 2022 and to take up for consideration and vote at its December 1, 2022 meeting on whether or not to continue with the remote meeting option beyond 2022. Vin Malkoski seconded. Unanimous in favor by a roll-call vote. So voted.

B. MAS Board of Trustees Meeting

Dave R reported that on January 15, 2022, the Board's staff attended (remotely) the monthly Board of Trustees meeting of the Massachusetts Archaeological Society (MAS). The Board's staff was elected to the MAS Board in December of 2021, thereby continuing BUAR's long legacy of involvement in the MAS. Retired BUAR director, Vic Mastone, is currently serving as the MAS's President. Dave R's 3-year MAS trustee's term ends in December 2024. During this month's MAS meeting, appointments to the Executive and Nominations Committees were made and an additional Board member was added as an appointed position. The date of the MAS's annual meeting was also set as October 15, 2022, to coincide with Massachusetts Archaeology Month.

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C. Bay State Council of Divers Meeting

Dave R reported that the Board's staff would be attending the February 2, 2022 (remote-access) meeting of the Bay State Council of Divers and that topics on the agenda include: an update on the Rockport lawsuit; the walking ramp replacement at Old Garden Beach, Rockport; and a forward look at the Bay State Council of Divers' planned activities in 2022.

D. Historical Archaeology Journal Article

Dave R reported that an article BUAR staff co-authored with Woods Hole Oceanographic Institute marine archaeologist, Dr. Calvin Mires, and retired BUAR Director, Vic Mastone, was accepted for publication in *Historical Archaeology*, the leading journal in the archaeological study of the modern era. The article is titled: "*Rising Waters and Coastal Maritime Heritage at Risk in Massachusetts: a Warning from the Ada K. Damon Shipwreck Site.*" The article focuses on the vulnerability of Massachusetts's coastal maritime heritage to climate change-induced sea level rise and erosion using the *Ada K. Damon* site as a case-study.

3. BOARD MEMBER REPORTS

There were no Board member reports.

4. PUBLIC ENGAGEMENT ACTIVITIES

A. Cape Cod Academy Educational Program/Presentation

Dave R reported that on January 18, 2022, BUAR staff delivered a remote presentation entitled "Pirates and Underwater Archaeology" to middle school students at the Cape Cod Academy in Osterville. The presentation was part of the Academy's four-day "Winterim Program" held between semesters. Winterim provides the Academy's students with a break from their regular classrooms to explore an area of interest in one of five areas – Health and Wellness, Academic Study, Outdoor Adventure, Service Learning, or Cultural Immersion. Students choose their Winterim experience and are guided by local experts and faculty, engaging in hands-on learning, creation, and field trips. Specifically, BUAR's presentation was part of the "Archaeology of Cape Cod" Winterim Area of Interest in which students studied shipwrecks and explored all aspects of archaeology on Cape Cod through visits to local sites and museums and guest speakers. They also conducted a mock excavation on campus.

B. "Shipwreck Scholars" Interactive Public Education Program

Dave R reported that the BUAR staff's collaboration with the Trustees of Reservations' educators at the Castle Hill/Crane Estate property in Ipswich that led to the development and delivery of the "Shipwreck Scholars" interactive public educational program in the Fall of 2021 will be continuing through the Winter of 2022. Designed for families and children ages 5-12, the Shipwreck Scholars program focuses on the wreck site of the 1875 Essex-built fishing schooner, *Ada K. Damon*, and uses the ship's archaeological remains as a portal for teaching children and adults about local maritime history, sea level rise, shipwreck archaeology, maritime culture and music, and historic preservation. Based on its initial success last Fall, four dates for the program are scheduled for this Winter: January 29; February 13; February 24; and March 16.

C. Dedham Retired Men's Club In-Person Presentation

Dave R reported that on April 8, 2022, BUAR staff would be giving its third invited presentation on Massachusetts underwater archaeology topics to the membership of the Dedham Retired Men's Club. This Spring's topic will be a discussion on submerged paleocultural landscapes archaeology and the BUAR-permitted "Project Mishoon" in Lake Quinsigamond (Worcester and Shrewsbury).

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5. OLD BUSINESS

A. Bassing Cove Maritime Association

Dave R reported that Bassing Cove Maritime Association's (BCMA) Excavation Permit (91-001) for their Scituate site was up for renewal. After contemplating not renewing the permit, the BCMA submitted its renewal application, fee and Annual Report, but unfortunately did so less than 30-days before its expiration. BUAR regulations require a permittee seeking renewal of a permit to submit an application no sooner than 60 days, nor later than 30 days, prior to the expiration of the existing permit. Consequently, BCMA's application could not be accepted. Given that BCMA does want to renew their permit, in circumstances such as this, it has been the Board's practice to grant up to two extensions of a permit's expiration date within a given permit year. This would be the permit's first extension. Neither Tom Mulloy, Debra Jackson, nor Hank Lynch were present to represent the Bassing Cove Maritime Association's permit. There was no further discussion.

Vin Malkoski moved to grant an extension of the expiration date of the Bassing Cove Maritime Association's Excavation Permit (91-001) for their Scituate site, with all the standard and special conditions in effect, until the Board's next scheduled meeting on March 31, 2022. John Warner seconded. Unanimous in favor by a roll-call vote. So voted.

B. Kenneth J. Medeiros

Dave R reported that Kenneth Medeiros's Reconnaissance Permit (07-003) for his Duxbury site was up for renewal. The Board granted Mr. Medeiros a permit extension at its last meeting. Mr. Medeiros had still not yet submitted a renewal application, although he did indicate that he intended to renew when he last communicated with the Board's staff prior to its December 17, 2021 meeting. The permit was set to expire at this meeting unless its expiration date was extended by the Board a second (and final) time to the Board's next regularly scheduled public meeting on March 31, 2022. It has been the Board's practice to grant up to two extensions in a permit year under these circumstances. This would be the permit's second (and final) extension. Mr. Medeiros was in attendance to represent this permit and requested that the Board grant him a second (and final) extension. He also reported that he had had significant medical issues in the previous year that had prevented him from conducting any fieldwork in his permit area. There was no further discussion.

Jack Chapin moved to extend for a second (and final) time the expiration date of Mr. Medeiros's Reconnaissance Permit (07-003) for his Duxbury site, with all standard and special conditions in effect, until the Board's next regularly scheduled public meeting on March 31, 2022. Vin Malkoski seconded. Unanimous in favor by a roll-call vote. So voted.

C. James M. Karos

James M. Karos's Reconnaissance Permit (06-001) for his Chelsea Creek Site in Boston, Chelsea, and Revere was up for renewal. Mr. Karos did not submit a renewal application and had not been in touch with the Board to request an extension; however, Dave R noted that he has been an active permittee who has done significant work in his permit area since 2006. The permit was set to expire at this meeting unless its expiration date was extended by the Board to its next regularly scheduled public meeting on March 31, 2022. It has been the Board's practice to grant up to two extensions in a permit year under these circumstances. This would be this permit's first extension. Mr. Karos was in attendance to represent this permit and requested that the Board grant him an extension. He also reported he was doing additional archival research in the Suffolk Register of Deeds and examining the history of modifications to and filling of the Creek. John Warner, provided Mr. Karos with advice regarding accessing specific record groups (e.g., records re: Waterways, Department of Public Works, Department of Agriculture, Belle Island Reclamation District, etc.) through the Commonwealth's Reference Archivist's office. Board member and marine archaeologist, Graham McKay, recommended Mr. Karos "be creative" and think broadly about which records he researches, and asked Mr. Karos if he had looked at the online "Digital Commonwealth" (<https://www.digitalcommonwealth.org/>) website for maps and photographs of his

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Chelsea Creek permit area. Mr. Karos confirmed that he had searched through Digital Commonwealth's online files and said that he would be getting in touch with the State's Reference Archivist for research assistance. There was no further discussion.

Graham McKay moved to extend the expiration date of Mr. Karos's Reconnaissance Permit (06-001) for his Chelsea Creek Site in Boston/Chelsea/Revere, with all standard conditions in effect, until the next meeting of the Board on March 31, 2022. Vin Malkoski seconded. Unanimous in favor by a roll-call vote. So voted.

D. SEARCH, Inc.

SEARCH, Inc.'s Special Use Permit (19-004) for their Amitie Subsea Cable Project area in Rockport, Gloucester, Manchester-by-the-Sea, Beverly, Salem, Marblehead, Swampscott, Lynn, and Nahant was up for renewal. SEARCH, Inc. had requested and received an extension of this permit's expiration date at the Board's December 17, 2021 meeting. SEARCH, Inc. wants to keep this permit open, so that any unanticipated discoveries that may occur during the Amitie Subsea Cable project's construction can be addressed under it. SEARCH, Inc. submitted a complete renewal application and Annual Report in accordance with the Board's regulations. No one from SEARCH, Inc. was in attendance to represent this permit. There was no further discussion.

Vin Malkoski moved to renew SEARCH, Inc.'s Special Use Permit (19-004) for their Amitie Subsea Cable project area in Rockport, Gloucester, Manchester-by-the-Sea, Beverly, Salem, Marblehead, Swampscott, Lynn, and Nahant, with all standard and special conditions in effect, for the period of one year, retroactive to December 17, 2021, with its expiration now December 17, 2022. Dan Sampson seconded. Unanimous in favor by a roll-call vote. So voted.

6. NEW BUSINESS

A. Joseph T. Baker

Dave R reported that the Board had received a complete new Reconnaissance Permit application for an area in Gloucester from Joseph T. Baker. Dave R acknowledged the overall quality and thoroughness of the application and its inclusion of a Project Archaeologist, Mr. Bob Cembrola, who is well known by the Board, on the application's project team, despite not being required for a Reconnaissance Permit. Mr. Baker's proposed site is located in the vicinity of Brace Cove and centers on where Mr. Baker's archival research and preliminary field investigations indicated the archaeological remains of the Revolutionary War-era British provincial merchant vessel, *Stakesby*, are preserved.

According to Mr. Baker's research, *Stakesby* was a 300-ton ship commissioned by British authorities to transport goods and supplies to the British garrison in Boston. *Stakesby* was captured by a Commodore John Manley-led squadron of Continental privateers commissioned by George Washington on March 10, 1776. On March 11, *Stakesby* ran aground in fog while the prize was being delivered to Continental authorities in Gloucester. The ship was "bilged," but all of its crew were able to swim to the safety of the nearby shore. Less than two days of attempted salvage were made to recover what was left of *Stakesby's* cargo, reportedly consisting of: 180 casks of porter, 30 casks of sour kraut, coal, cheese, and 164 live hogs, with limited success. The list of salvaged items reported by Winthrop Sargent to George Washington on March 26, 1776 included: 19 butts, 6 hogsheads, and 17 quarter-casks of porter; 9 hogsheads of vinegar; 2 butts of sour kraut; 2 cables; 3 anchors; 1 hawser; 2 iron "hulks;" 3 "copper;" sails and running rigging; 2 boats; sundry blocks; and 3 live hogs. On March 13, 1776, the British armed brig, *Hope*, under the command of Lt. George Dawson, arrived at *Stakesby's* wreck site. The presence of this armed British brig and the approach of one of its boats caused the Continental salvors to abandon their salvage effort and quit the *Stakesby*. Dawson destroyed a number of casks of porter and set *Stakesby* on fire, burning it to its waterline.

Given that Mr. Baker was a new BUAR permit applicant and his application was the first, new, non-Special Use Permit request to be considered by the Board since the addition of two new members

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(i.e., McClanan and Malkoski), Dave R took a moment to review relevant elements of the Board's regulations prior to the Board's discussion and consideration of the permit for approval.

Dave R noted, first, *"the Board issues permits to persons who have located a shipwreck or other resource for purposes of investigation, exploration, recovery, reporting, and/or conservation of underwater archaeological resources, if the Board deems that such operations are in the public interest. No person shall remove, displace, damage or destroy a resource without the Board's permission, except for minimal artifact collection (entailing minimal site disruption) for purposes of establishing the existence of an underwater archaeological resource. Permittees shall report, catalogue and inventory all recovered artifacts to the Board. Permits shall not be issued in the absence of demonstrable proof of the existence of a resource, except in the case of Special Use Permits."* Demonstrable proof is defined in the Board's regulations as *"Clear and convincing evidence of the presence of an underwater archaeological resource."* An *"underwater archaeological resource"* is defined in the BUAR's regulations as *"Any of the following which have historic value and are located within the inland or coastal waters of the Commonwealth or the lands under such waters: abandoned properties, artifacts, treasure trove, or sunken ships which have remained unclaimed for 100 years or more or that are determined to have a value of \$5,000 or more; or other objects, 100 years old or more or judged by the Board to have historical value, that are located inside, upon, or around underwater archaeological resources."*

Dave R noted, second, activities allowed under a BUAR Reconnaissance permit are defined in the Board's regulations as:

"Non-disruptive inspection and identification of an underwater archaeological resource characterized by minimal site disturbance. The purpose of the reconnaissance permit is to inventory the site, to protect the discoverer's interest in the site, and to make available the protection and expertise of the Board." Further, *"reconnaissance activities shall be limited to historical research, remote sensing, visual or electronic observation, mapping, and limited collection of artifacts found without excavation, solely for the purpose of identification or protection. All resources collected shall be mapped, documented and conserved."*

Dave R noted, third, and finally, that the Board's regulations (312 CMR 2.06[d] Permit Area) specify that: *"The size of the permit area shall reflect circumstances at the site, including working conditions and anticipated archaeological resources. The permit area shall cover as small and well-defined a geographic extent as the Board deems reasonable and appropriate for the activity to be conducted."*

Given that Mr. Baker stated to the Board in his application that he knew the exact location of the wreck, and because of the aforementioned requirements of the Board's regulations regarding the size of a permit area, Dave R recommended for the Board's consideration and approval a 0.5-x-0.5 nautical mile area encompassing the location Mr. Baker identified as the wreck site with the understanding that if he were to find as a result of his field investigations that the site extends beyond the limits of his permit area, that he will have an opportunity to present to the Board clear and convincing evidence of this finding and request his permit area be expanded to a size less than or equal to the 1.0 nautical mile-x-1.0 nautical mile maximum allowable permit area size that BUAR regulations allow for an amorphous site. Mr. Baker was in attendance to represent this permit application. Mr. Baker thanked the Board for its consideration of his application, noted the historical significance of the *Stakesby* wreck site, and described in greater detail the nature and results from his archival research and the initial field reconnaissance that he did with his son at the site at low tide to obtain demonstrable proof of its existence. Mr. Baker noted that in addition to the physical evidence of the wreck that he observed in the area, there was also a significant amount of lobster trap debris nearby. Jack Chapin asked if Mr. Baker expected to find additional *Stakesby* wreckage in the sub-tidal area off Bemo Ledge. Mr. Baker answered in the affirmative. Mr. Chapin advised Mr. Baker that, if awarded the permit, he should contact the Massachusetts Environmental Police if he had any issues with commercial fishing vessel traffic or found any abandoned fishing gear in the permit area. Dave R recommended to the Board that if it voted to grant Mr. Baker a permit, that the permit include the additional conditions that Mr. Baker provide the Board with: a) a catalogue and inventory (including color scale photographs) of all artifacts surface-collected from the site to date; and b) a

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conservation plan developed by a qualified marine archaeological conservator for the conservation treatment of any recovered artifacts from the site, prior to the initiation of any additional fieldwork. There was no further discussion.

Vin Malkoski moved to approve Joseph T. Baker's Reconnaissance Permit for his Gloucester site, as detailed in the work plan and map proposed by the Board's staff included in the application submitted to the Board, with all the standard and special conditions in effect, including the additional conditions that Mr. Baker provide the Board with a catalogue and inventory (including color scale photographs) of all artifacts surface-collected from the site to date, and a conservation plan developed by a qualified marine archaeological conservator for the conservation treatment of any recovered artifacts from the site, prior to the initiation of any additional fieldwork. Jack Chapin seconded. Unanimous in favor by a roll-call vote. So voted.

The next regularly scheduled public meeting of the Board will be held via remote-access at 12:30 pm on March 31, 2022. Permittees and interested members of the public are encouraged to monitor the BUAR webpage's Public Meetings Information section for updates, meeting agendas, remote-access meeting log-in instructions, and the Board-approved minutes from past meetings.

Dave R thanked meeting participants for their attendance and participation in the meeting and extended special thanks to Ms. DiBona for co-hosting, and to the Board for their continued effort, cooperation, and patience during these challenging times. He wished everyone continued good health and safety.

Dan Sampson moved to adjourn the meeting at 1:36 pm. Vin Malkoski seconded. Unanimous in favor by a roll-call vote. So voted.

Respectfully submitted,

David S. Robinson
Director