

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, April 14, 2016, 6:30 p.m.
Meeting Location: Third Floor Conference Room, City Hall Annex, 120
Washington Street
Members Present: Chair Gregory St. Louis, Dan Ricciarelli, Tyler Glode, Scott E.
Sheehan, Bart Hoskins, Gail Kubik
Members Absent: Tom Campbell
Others Present: Tom Devine, Conservation Agent
Recorder: Stacy Kilb

Chair St. Louis calls the meeting to order at 6:35PM.

- 1. 9 Harbor View Terrace Gangway and Float—Notice of Intent—Scott Maxwell, 9 Harbor View Terrace, Salem, MA. The purpose of this hearing is to discuss the proposed construction of a gangway and float at 9 Harbor View Terrace within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Documents:

- 4/12/2016 email from David Pabich to Tom Devine
- 4/12/2016 letter from Jillian Carr at Massachusetts Division of Marine Fisheries to Tom Devine

Applicant Scott Maxwell presents. He describes the gangway and float as they existed previously and as proposed. He would like to enlarge it slightly beyond what is currently permitted. The float was previously removed but is still approved by the Harbormaster. Chair St. Louis advises the applicant that he will most likely need a Chapter 91 License.

Ricciarelli comments that the float is rotated differently on the plans and may impact the neighbor's property lines. Devine distributes an email from neighbor David Pabich of 8 Harbor View Terrace. Ricciarelli comments on the different configurations. The applicant does not know where the property lines are, and the Commission is unsure as well. This is an issue because the Commission cannot grant approval to use someone else's property without their permission.

Devine also hands out the Division of Marine Fisheries comment letter. Ricciarelli asks if the applicant has considered piles and discussion of anchors vs. piles ensues. The applicant had not previously heard about piles until earlier this week but will look into it, though he is not particularly in favor. The Chair comments that the Chapter 91 license will probably require him to meet the DMF recommendations. Some area structures that do not have piles are grandfathered in or may be unpermitted. Skids could also be an option to keep the structures off the mud flat. The applicant prefers skids over piles.

Chair St. Louis comments that an engineer or wetland scientist should weigh in on the strength of the soil and if it will hold up under the skids. Even if the applicant replaces what was there in kind, the Chair would ask to see his Chapter 91 license so he would still have to come before this Board. Logistics, timing and regulations are further discussed. The applicant does not know whether or not he has a Chapter 91 permit.

If the applicant cannot make the structures larger, he would like to replace what is there. The Commission is willing to grant the permit for the larger float, but would like the applicant to address the DMF comments and seek the Chapter 91 license if applicable. In the meantime, he would be allowed to replace the existing structures and float that were there. Other options are discussed. The Commission does not have a permit on file for the existing structures; it is not clear whether they predate the Wetlands Protection Act. The Chair suggests conditioning approval of the new facility as conditioning the old one would mean the applicant would have to re-apply later.

Ricciarelli asks to clarify if the float will sit on the ground at low tide; it will be and must be raised above the mud flat by 18”.

Chair St. Louis opens to the public but there are no comments.

Special conditions:

- Modify the plan to account DMF comments and submit revised plan to Agent for review
- Prior to implementation, the applicant must confirm, amend or obtain a Chapter 91 license as applicable
- If the float will be removed and stored over the winter, it should be stored upland, beyond the seawall, not on the beach
- Gangway and float may be moved as needed to avoid crossing any property lines

A motion to close the public hearing is made by Ricciarelli, seconded by Glode, and passes 6-0.

A motion to issue the Order of Conditions with the above special conditions is made by Glode, seconded by Kubik, and passes unanimously.

2. Sergeant Ayube Memorial Drive Detention Basin Upgrades—Request for Determination of Applicability—MassDOT, 10 Park Plaza, Room 4260, Boston, MA. The purpose of this hearing is to discuss proposed improvements to the stormwater detention basin along Sargeant James Ayube Memorial Drive (Bridge Street Bypass) within an area subject to the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.

Bryan Cordeiro, Ed Hutchinson and Matt Moyen represent the applicant. Mr. Cordeiro presents the background of the project. The purpose is to improve impaired water bodies, in this case the North River. He describes their process of designing stormwater features to treat runoff. He describes the existing detention basin and proposed improvements.

Mr. Hutchinson describes the resource areas including coastal bank, buffer zone, and riverfront area. This is an RDA as stormwater structure improvements are generally not considered alterations under the Act. Technically, there are no impacts from this project.

Mr. Moyen describes the detention basin, which currently only provides incidental treatment. The proposed is an infiltration basin that will provide pretreatment of runoff via a forebay or pretreatment structure and infiltration basin. There will be minor grading and other work such as outflow structures.

Ricciarelli approves of the improvements and Glode asks about the forebay. It use pavers to provide a hard

bottom, in order to make sediment removal easier. They will be spaced to allow for draw down. Chair St. Louis asks about the locations of the forebays and Mr. Moyen elaborates. Sediment has been accumulating and will be removed. Mr. Cordeiro outlines the DOT's maintenance procedure, which includes annual inspection and maintenance as needed. The pavers help facilitate removal of sediment.

The Chair asks about access to an outfall and the MassDOT crew will determine how to gain access. Access points are described. Hoskins asks about backflow prevention in the case of storm surge, and Mr. Cordeiro describes the rain events this type of basin is designed to treat. Such basins are also usually underwater during flood events, so a tide gate would not make much of a difference as far as impeding sediments.

Chair St. Louis asks about elevations and Mr. Moyen elaborates. Elevations and groundwater are discussed. The basin will be grass lined.

The Chair opens to the public but there are no comments.

An electronic copy of the plan once it has gone out to bid is requested. There is an Order of Conditions for the Bridge St. Bypass, but this project is separate. A negative 6 determination is not relevant as this is state property and the local wetlands ordinance does not apply. The logistics of the easement and right-of-way are described by Mr. Cordeiro. Right-of-way will be acquired from the City.

Ricciarelli motions to issue a negative 2 determination, is seconded by Hoskins, and the motion passes unanimously, 6-0.

3. Keolis (MBTA) Wetlands Delineation for Railroad Herbicide Application—Request for Determination of Applicability for Keolis Commuter Services, 470 Atlantic Avenue, Boston, MA. The purpose of this hearing is to discuss verification of wetland boundaries in planning for the application of herbicides on Keolis's rights of way within areas subject to the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.

Here for the applicant is Kyle Fair. This project is not subject to the local ordinance. Mr. Fair was last here five years ago. He describes the right-of-way; they are renewing the RDA as their vegetation management has expired and new RDA's must be sought from all 94 municipalities that the Commuter rail passes through. Wetlands will be identified as a whole; zones are determined that indicate pattern, chemical and frequency of spray, which he describes.

Chair St. Louis comments that the phrasing "verifying wetland boundaries" seems odd. The state process specifically requires a Determination of Applicability. Spray zones are limited to within 10' either side of center line, however while 10' is delineated, Keolis is only spraying 8'. Sheehan asks if Keolis has considered moving away from pesticides and herbicides; all are the ones being used are chosen from the Massachusetts Department of Agricultural Resources sensitive list. Other suggestions have been considered, but they are trying to avoid dead organics in the track structure. Pre-emergent chemicals cannot be used for logistical reasons.

Delineation is based on site walks. Measurements are done every five years to verify the spray zones. Application is scheduled for late June/early July. It may happen at night or Sundays, being less busy times. Herbicides will be applied once a year over a five year period. A local environmental scientist will ride the truck. Hoskins asks about knotweed; the application is not effective on knotweed and is mostly meant for

grass and smaller weeds. Typically knotweed and other invasives are hand pulled and there is a lot of resistance to glyphosphate herbicides. Estimated habitat was not delineated as it is not required to be shown.

A determination is being sought to confirm that the wetland boundaries are as delineated.

Glode asks about a natural heritage zone and priority habitat. Mr. Fair elaborates.

A motion to close the public hearing is made by Hoskins, seconded by Kubik, and all are in favor.

A motion to issue a negative 5 determination citing application regulations (310 CMR 10.03 (6)(b), 310 CMR 10.58 (6)(a)) is made by Ricciarelli, seconded by Glode, and all are in favor.

4. Witch Hill Subdivision House Lots: 10 - 16 Nurse Way

Notices of Intent (7)—Kenneth G. Steadman, 67R Village Street, Marblehead, MA. The purpose of this hearing is to discuss the proposed construction of a single family house and appurtenances at 10, 11, 12, 13, 14, 15 and 16 Nurse Way within an area subject to the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.

Chair St. Louis opens the 7 public hearings together.

Ken Steadman presents. This is the last phase of the project. Other houses have been built and are occupied. There are seven lots in the buffer zone. Wetlands and the buffer zone are outlined. Binder for the road and all utilities are in place under a separate Order of Conditions. Footprints presented are larger than what will likely be built. Six of the locations will require blasting. Walking paths have been constructed and are described.

The Certificate of Compliance for the roadways and utilities has not yet been issued as the roadway and sidewalks are not complete. The lots have not yet been graded. Previous plantings and requirements are discussed. A siltation barrier is already in place. The original Order also covered the stormwater plan, including impervious surfaces on these current lots in question. Additional drainage will be added within an easement. Chair St. Louis asks about infiltration and Mr. Steadman elaborates. There is some question about a structural wall. Mr. Steadman states that he does not intend to have such walls in the project; the Chair comments that if having walkouts is the intent, substantial revisions will be required on certain lots. Discussion on grading continues. The retaining wall shown was proposed by an engineer but Mr. Steadman does not want to build one.

The Plan, which is dated 4/6/15, was actually started in 2015 and the Chair would like to see a revised Plan for drainage and elevations. Setbacks to the wetlands should also be considered, especially on Lot 10.

The Chair opens to public but there are no comments. Chair St. Louis recommends to continue until revised plans are provided for retaining walls, drainage system that conflict. Ricciarelli wonders why an easement is needed for drainage given the setup and potential design revisions.

The bedrock in the area is described, as is the intent to blast. There will be a blasted ledge, not a retaining wall. Ricciarelli suggests a site visit. Chair St. Louis asks Devine to provide the original road file prior to the next meeting; Mr. Steadman can also provide those. Commissioners may also visit the site individually if a

formal site visit is not scheduled.

A and B wetland delineation flag series and their meanings are described and discussed. Chair St. Louis asks if the original permit allowed a wetland to be filled and drainage inserted; it did and replication will occur. Ricciarelli comments on Lot 11 and the fact that it is in the buffer; he wonders about the roadway. Devine references the previous orders for other lots where plantings were required as mitigation for clearing lots prior to their permitting.

Additional discussion of grades occurs.

Chair St. Louis requests plan revisions:

Verification of areas of proposed retaining walls

Amending any grades in said areas, as necessary

Depicting any wetland replication areas that are to be, or are constructed

Correct any “orphaned contours” (that don’t tie into anything)

Clarify any proposed work on the open space that contradicts any work already done or permitted

No formal site visit is scheduled; Commissioners can visit at their leisure. Devine points out that this is one of the few opportunities in the process where this Commission has the leverage to ensure that lots are built as permitted, as the buyers’ attorneys will want to see Certificates of Compliance. The same leverage is not there for the overarching order for the roadway, utilities, and open space. Therefore, he recommends holding Certificates for certain lots until a Certificate of Compliance is obtained for the overarching order. However, the applicant does not want to put in finished asphalt if heavy equipment will be used later.

Jurisdiction of this Commission and the Planning Board is discussed. Devine is especially interested in ensuring that the wetlands replication be done. He suggests that some items are less critical, such as the final pavement layer, which the Planning Board will require anyway.

Chair St. Louis suggests building the replicated wetlands now if the applicant will need to wait for it to grow in. He would like to review original plans, which will be provided. Logistics of replication are discussed.

A motion to continue the hearing for all seven notices of intent to the May 12 meeting is made by Ricciarelli, seconded by Glode, and passes unanimously.

5. 417 Lafayette Street House Addition and Deck—Notice of Intent—Andrea & Michael Cawlina, 417 Lafayette Street, Salem, MA. The purpose of this hearing is to discuss a proposed house addition and deck at 417 Lafayette Street within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

This item is heard before item 4. Here for the applicant is Mr. Bill Manuel of Wetlands & Land Management. Two previous NOIs have been seen for this property, but this is a simpler project, which he describes. It will be a kitchen addition and a deck. The addition is outside the Land Subject to Coastal Storm Flowage, but the piers of the deck are inside it. It barely touches the buffer zone to coastal bank (a seawall). The project’s details are described.

There will be minor carpentry work on the outside of the existing home to make the roof of the new

kitchen into another deck. The footings of the other deck are also described. Work is occurring over either an existing pea stone patio or grass. The Coastal Bank must remain stabilized; the project is far enough away that it will not impact the sea wall. Erosion controls will be at the limit of property/limit of work. The area will be re-sodded and re-seeded.

Sheehan asks about the existing pea stone; it is being replaced by a concrete slab on the plan but actually it will remain pea stone under the deck. Excavation is minimal, so material will be laid next to the hole. There is a shared driveway for the two lots. The fence and gate are described.

The Chair opens to the public and Philip Moran 415 Lafayette St., who owns adjacent property with the shared driveway, is in support of the project.

Beth and Paul Francis of 419 Lafayette St., wonder about access to the project and Mr. Manuel outlines. He also provides the square footage of the deck and addition.

Minutes are to reflect that concrete slab will not be put in and pea stone will stay in place, thus no amendment to the plans is necessary.

A motion to close the public hearing is made by Ricciarelli, seconded by Glode, and all are in favor.

A motion to issue an Order of Conditions with standard conditions is made by Glode, seconded by Sheehan, and all are in favor.

6. Old/New Business

- **8 & 10 Franklin Street bulkhead, DEP #64-556: Request for approval of minor change**

Ryan Mackay Geological Field Services, 14 Hubon St. Salem, MA, requests the change. A proposed anchor wall will be made of steel rather than concrete; since the price of steel has dropped that is now the more economical option. They wish to tie into sheet wall instead and it will be less disruptive with the area of excavation.

There are no other construction or design changes. Ricciarelli asks about what was originally in place and Mr. Mackay outlines. Devine comments that work has begun.

The Commission determines that this is a minor change requiring no further review.

- **North Shore Medical Center Central Utility Plant, DEP #64-539: Request for Certificate of Compliance**

Bill Manuel presents the as-built plan; Devine photographed the site over the summer. Scott Patrowicz has submitted a letter stating that the project was built in compliance. Mr. Manuel describes the areas of his work, which have been successfully restored. Devine concurs with his description of the success and loss of a few plantings. There was no monitoring period established, but plants are entering their second growing season.

A motion to issue the Certificate of Compliance is made by Ricciarelli, seconded by Kubik, and passes

unanimously.

- **Strongwater Crossing/Osborne Hills Subdivision, DEP #64-549: Request to extend Order of Conditions**

This is Salem's largest subdivision development with approximately 130 homes, and there is no way they can finish before the order expires. A partial Certificate for Phases 1 and 2 was obtained. The Chair asks about an ORAD; this was done before obtaining the Order of Conditions for the roadway and utilities. Chair St. Louis comments that when extending these orders, the Commission has the right to revisit the wetland if it believes it has changed over time. This was originally permitted 2006 and a new Order issued in 2013, due to substantial changes.

The Commission requests and update on the project. The item is tabled until the next meeting.

- **Commercial Street LID, DEP #64-551: Request to extend Order of Conditions**

At a recent meeting, Barbara Warren presented on Living Shorelines and provided update on this project for stormwater treatment along the North side of Commercial St. They will begin construction of one phase as they now have grant funding. Devine recommends a 2 or 3 year extension.

A motion to grant a 3 year extension is made by Ricciarelli, seconded by Glode, and passes 5-0 with Hoskins recused.

- **Discussion of various wetlands violations**

Salem Hospital

The violation was self-reported by the hospital; a letter of enforcement was sent by Devine. Mr. Manuel states that that will become the main entrance to the hospital soon. Restoration will be implemented beginning Monday.

53 Mason St.

They are planning to file an NOI for the May 12 meeting. The site is now secure with erosion controls. The Building Dept. will allow a temporary permit for this use (stockpiling and processing materials to support the National Grid underground electric cable project).

63 Jefferson Ave.

Dan Ricciarelli recuses himself. 63 ½ Jefferson was previously encroaching and filling Riverfront area, and they completed restoration. Next door, they are plowing material into National Grid property, which is Riverfront Area and possibly buffer zone. The Commission is requiring removal of debris above the surface, that they dig down to native soil, add 4" top soil with conservation mix, and add erosion controls and a long term barrier as approved by the Agent.

24 Lemon Street

This is within the outer edge of the 200' Riverfront area close to the MassDOT detention basin discussed earlier at this meeting. A homeowner was given permission by the DPW to remove some shrubs that were catching a lot of trash. However, other residents appreciated the visual and sound screening it provided. The City will have to plant shrubs at its expense, as it mistakenly give a resident permission to clear vegetation

within the riverfront area without the Commission's approval.

- **Meeting Minutes—March 10, 2016**

A motion to approve the minutes is made by Ricciarelli, seconded by Hoskins, and passes 4-0 with Kubik and Sheehan not voting.

National Grid proposal for exempt gas line replacement on Webb St.

Devine describes the work. The old pipe will be abandoned in place and replaced in kind. The Commission agrees that this work is exempt.

Invitation Apr 21 City Council Meeting Regarding Trees

Devine says City Councilors may not be aware of what the Conservation Commission's jurisdiction is. This is outside the Commission's basic mission (WPA project review and open space protection), but Commissioners are welcome to go. Sheehan is interested. Chair St. Louis will try to attend if possible. Hoskins says the CPA was invited but decided that trees were not part of Community Preservation Act.

Miscellaneous

MACC contacted Devine and St. Louis to see if the Commission would be interested in advocating against proposed state legislation that MACC fears would limit the power of local wetlands ordinances. Commissioners are not familiar with the legislation. Devine points to MACC emails as a source for information and states that he can help if anyone wants to learn more.

Devine would like to respond to the MACC. Devine recommends declining the request that Salem serve as a model for local ordinances, but will give feedback on how our local ordinance works or doesn't work. The Commission can send letters to state representatives if they would like to advocate directly against the legislation, or allow the MACC to do it on their behalf. They will likely stand with MACC, but will take more active role if the Commission feels it is appropriate as they learn more about the legislation.

Chair St. Louis comments that the Salem and Beverly municipalities have MS4 permits, those having been reissued after being appealed for 10 years. This amounts to a huge cost and requires substantial employee time to comply. He opines that the City should be smart about Salem's 2017 permit and what developers can and cannot do.

Devine remarks that the City already has had to do outreach, enact a stormwater management ordinance, and eliminate illicit discharges to comply with the MS4 permit.

Proposal to conduct additional work under DMF's Eelgrass Restoration Order, DEP #64-526

A 2012 DMF Order of Conditions was obtained for eelgrass restoration, and DMF would like to expand the planting beyond that originally planned. They were approved for 20,000 square feet, planted 15,000 square feet, and would like to plant an additional 10,000 square feet of eelgrass. The general area is described and there is no issue with navigation or moorings. Salem's vast area of ocean jurisdiction is described; this is within Salem's waters though it is far out.

As a true amendment to the Order would be cumbersome, Devine recommends that this be a minor modification. He suggests allowing them to proceed using the same methods as approved, but that they

should come in and provide the Commission with an update at the next meeting. The Commission agrees.

A motion to adjourn is made by Ricciarelli, seconded by Sheehan, and passes unanimously.

The meeting ends at 9:51 PM.

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission

Approved by the Conservation Commission on May 12, 2016.