



# CITY OF SALEM CONSERVATION COMMISSION

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## NOTICE OF MEETING

Notice is hereby given that a meeting of the Salem Conservation Commission will be held on **Tuesday, December 21, 2021 at 6:30 p.m. via remote participation, in accordance with Chapter 20 of the Acts of 2021.**

## MEETING MINUTES

***Chair Greg St. Louis opens the meeting at 6:35 pm***

### I. ROLL CALL

*Present:* Greg St. Louis, Tom Campbell, Dan Ricciarelli, Tyler Glode (4)

*Absent:* Judith Kohn, Bart Hoskins, Scott Sheehan (3)

*Also in attendance:* Kate Kennedy, Hannah Martin (2)

### II. PRESENTATIONS

#### **6:30 – 7:30 PM - Wetlands Protection Update - Presentation to Conservation Commission**

Presentation will be an overview of the content in the draft update to Salem's local Wetlands Protection & Conservation Ordinance and draft preliminary regulations. The changes in permitting under the current structure versus these updates will be reviewed. Presentation will include time for Conservation Commission member Q&A.

Andrew Gorman shares a summary of the updated Wetlands Protection & Conservation Ordinance draft. Updates include:

- Improvements around verbiage and structure to definitions page.
- Change to structure and resource area values:
  - No disturbance zone (25ft), mitigation zone (50ft), IVW protection, climate change considered in review.
    - No disturbance zone is the innermost portion of the buffer zone. Work within would have a negative impact on the area.
    - If project has a unique need to perform work in the mitigation zone, work must be approved by the Commission. City walks away with an ecological safety net.
  - Proposed inclusion of vernal pools as recognized resource area.
  - Proposed inclusion of isolated vegetated wetlands as a recognized resource area.
- Additional notes:
  - Updated appeal structure.
  - Expanded bank and stream definitions.
  - Larger no disturbance zone and mitigation zone for undeveloped land surrounding vernal pools.

Commission to provide comments/feedback by January 6, 2022.

Public comments:

Margaret Van Deusen: Section 5-10 discussing the waiver. I think there is a tendency to look at a regulation and think “how would we administer this section?” This section needs to stand on its own. Not how you might interpret it. I understand there are six pieces of criteria that all need to be separately met - will submit further comments on that. Additionally, wondering about number three. What does “self imposed hardship” mean?

- Andrew Gorman: For example: perhaps you put your property through the process restricting access to a back lot. Then try to file a limited project to cross wetland through the now locked portion of the property. Applicant has to demonstrate that they have not configured a hardship that did not come from intended land use.
- Margaret Van Deusen: Thank you. I would also like for you to talk more about criteria number six. The first sentence is really good. But the information following needs to be fleshed out a little more. The way it is phrased could set up applicants for confusion. Language weighted on projects a little bit too much.
  - Andrew Gorman: Great piece of feedback. We can take a second look and reframe.
  - Stacy Miniham: Wanted to note that this section mirrors language from the Wetlands Protections Act.

### III. REGULAR AGENDA

- A. 9 Franklin Street – DEP# 64-729** - Public Hearing *Continuation* – Notice of Intent for Patrick Shea, 11 Franklin LLC, for the property located at 9 Franklin Street, Salem, MA. The purpose of the hearing is to discuss the proposed twelve (12) unit multi-family development and associated site work within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Taken ahead of presentation.

Dan Ricciarelli recuses himself from this item.

*A motion to continue the public hearing to January 18, 2022 is made by Campbell, seconded by Glode, and passes 4-0.*

- B. 435 Lafayette Street – DEP# 64-730** - Public Hearing *Continuation* – Notice of Intent for Kelly Levesque, John Mackinnon and Linda Gagnon, 435 Lafayette Street, Salem, MA. The purpose of the hearing is to discuss the proposed installation of a pier/gangway and float; a circular exterior stairway; and phragmites/invasive species control, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Susan St. Pierre: We have worked to address concerns brought up by the commission at last meeting. Sharing a brief presentation of updates, including:

- Floating dock changed to be a pile supported dock. Also reconfigured to be perpendicular to harbor. Float will be removed and moved off site during off season. Harbormaster believes this is a much improved design.
- Multiple trees have branches overtaking the area. Recommending to prune branches within 5-10 feet away from house.
- Phragmites and invasive species to be removed through two step treatment plan. Replaced with salt marsh friendly plugs, as needed
  - Bill Manuel: Phragmites will be treated twice in first year. Ideally 90-95% will be eliminated in first treatment. Second treatment will be a spot treatment in areas needed. Hesitations around planting immediately after the second treatment. Will be reporting to the Commission throughout treatment process and growing season.
- Removal of overcrowded trees in area. Totalling eight trunks.
  - Greg St. Louis: Current concern around this being in a velocity zone. While vegetation is potentially not purposeful, it is offering soft shoreline protection. There are no trees proposed to be planted in this

area, correct?

- Bill Manuel: Correct. The way everything is growing in such close proximity is not healthy for the collective. Multi stump trees are prone to failure. All trees growing into each other doesn't promote good growth or a healthy environment. Removals are promoting better growing environment for entire area.
- Construction debris boom to be installed around work area. Crane will move a small excavator into area to dig piles. Rest of the work will be done by hand.
  - Department of Marine Fishery shared concerns around barge grounding. Requested it be avoided at all times.
  - In order to work with the tide, barge would have to be moved everyday. Likely adding months to project. Really would like ability to let barge ground.
    - Greg St. Louis: Not sure this would be a multi month project because of the barge having to be removed.
    - Bill Manuel: Barge is likely not needed for the entire 2-4 weeks. Not everyday. 16 piles is not going to take 2-4 weeks.
    - Greg St. Louis: Is the barge just for driving piles? Will there be any debris created on the barge (i.e. sawdust)?
    - Susan St. Pierre: Barge will be used to bring in materials. There will be no debris coming from the barge. Happy to agree to a condition restricting that.

Greg St. Louis: What is the material for the wood in this area?

- Susan St. Pierre: Piles are going to be yellow pine treated with CCA. Other timber is going to be ACQ treated.

Greg St. Louis: Regarding vegetation, what is the square footage of phragmites area?

- Susan St. Pierre: Upland is 1,318 square feet, marsh is 693 square feet. Upland will become salt marsh tolerant plants.
- Bill Manuel: We do expect some indigenous plants to come back. We plan to work around those. The amount of plugs needed will be determined by empty space.
- Greg St. Louis: Would appreciate some language around the options for plantings in upland going forward.

Tom Campbell: Wondering the size of the barge needed?

- Susan St. Pierre: That I don't know. Not sure of the square footage.
- Bill Manuel: Larger than a small boat.
- Tyler Glode: Would the barge be resting on the salt marsh? What is the resource area it is resting on?
- Susan St. Pierre: The mud flats.
- Tyler Glode: That is a major concern long term. Think it could be avoided.

*A motion to close the public hearing is made by Ricciarelli, seconded by Glode, and passes 4-0.*

*A motion to issue an order of conditions subject to standard conditions and special conditions, as discussed, is made by Ricciarelli, seconded by Campbell, and passes 4-0.*

- C. 4 Franklin Street – DEP# 64-732** - Public Hearing – Notice of Intent for CAS Salem, LLC, for property located 4 Franklin Street, Salem, MA. The purpose of the hearing is to discuss the proposed redevelopment of the former HMA Car Care facility along the North River. Phase I of the redevelopment consists of an Ambulance and Business Office building with associated parking, utilities, landscaping and construction of a public access walkway along the North River shoreline, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Bob Griffin: Project has been through Planning Board and has been approved. Seeking Chapter 91 after tonight's meeting with the Commission.

Site is currently mostly asphalt or concrete from previous building. 641 square feet of property falls in river front buffer zone. Because of this the Commission has jurisdiction over the entire site.

A multi phase project. Phase two, river front area, is undetermined. Phase two will involve removal of concrete and asphalt to be replaced with lowman seed and some foliage. 1/3 of property is in phase 1, 2/3 of property is in phase 2.

Building, part of phase 1, is large enough for 6 ambulances and administrative staff area. Because it is an essential facility, floor must be at elevation 12 to meet standards.

Plant species in landscape plan include various trees, perennials, serviceberry, inkberry, roses, etc. A nice landscaping plan that will provide color through the year.

Greg St. Louis: Garage floor is 2 ft above flood plane and includes drains. Is there a valve shut off on the floor drain?

- Bob Griffin: No, but one could be added.
- Greg St. Louis: Does the site have any contamination like similar places in the area?
- Bob Griffin: No reportable contamination.
- Greg St. Louis: This site was most recently a car wash. Is there any plumping system or tanks that need to be removed? Or did recent uses go directly to sewer?
- Bob Griffin: I don't believe there is any previous plumping system that needs to be removed. But truthfully don't know the ins and outs of the plumping systems. There is a requirement to look into things like this within phase 1.

Tom Campbell: Are there any sort of vehicle maintenance functions on site?

- Bob Griffin: No mechanical work, but they will be washing vehicles and keeping them clean.

*A motion to close the public hearing is made by Ricciarelli, seconded by Campbell, and passes 4-0.*

*A motion to issue an order of conditions subject to standard conditions and special conditions, as discussed, is made by Ricciarelli, seconded by Glode, and passes 4-0.*

- D. 1 Peirce Road – DEP# 64-733** - Public Hearing – Notice of Intent for John Eckman & Jo Tyler, 14 Buchanan Road, Salem, MA for property located at 1 Pierce Road, Salem, MA. The purpose of the hearing is to discuss the proposed single story house addition, repairs/renovations to existing house/deck/garage, and site work/landscaping including stormwater mitigation, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Scott Patrowicz: This is a single story building addition firmly inside the riverfront area. Goal is to build a small art studio and bathroom next to it. Following a lot of analysis, we believe current placement is the best option to preserve as many trees and shrubs are possible.

Greg St. Louis: Will driveway size remain the same?

- Scott Patrowicz: Yes. A small area will be torn up for construction but restored following project completion.

Greg St. Louis: Is there a municipal sewer?

- Scott Patrowicz: Yes, I've seen a plan on that. But don't recall its exact placement.
- Greg St. Louis: Recommend remaining cognizant of where it is. 100 year old utilities have a tendency to not be where they're supposed to be.

Public comment:

Alyssa Rosemartin, 12 Buchanan Road (abutter): Concerned about this project because it is right in the salt marsh and river front buffer. A lot of impervious surfaces. A sensitive area we care about. Doesn't make much sense to us to be building in a wetland resource buffer zone. Impacts flood management. Would also lose some of our waterfront view.

Dan Ricciarelli: Scott, can you talk more about the stone patio? Is it loose?

- Scott Patrowicz: Yes, loose laid. Any water that hits patio will percolate in space between stones. Increase in impervious surfaces is fairly small, roughly 476 square feet. Project is 79 feet away from salt marsh itself with a very large landscape buffer.

Alyssa Rosemartin: Have you considered the alternative of a smaller addition behind the house instead of next to it? Could there be other opportunities to mitigate the addition of more impervious surface? Would maybe help to see an analysis of water absorbed with the swell.

Dennis Rosemartin: This addition would essentially be doubling the amount of impervious surface in a sensitive buffer zone. We are concerned. All done within the salt marsh buffer.

Bob Weatherall: Noting the orientation of the addition. Considered an addition uphill from the house. Flow within floor plan and preservation of existing vegetation determined current location was the best option. Current location makes it a less obtrusive addition to neighbors uphill. Additionally thinking that building on top of already disturbed land (koi pond) will help mitigate environmental impact.

*A motion to close the public hearing is made by Ricciarelli, seconded by Glode, and passes 4-0.*

*A motion to issue an order of conditions subject to standard conditions is made by Glode, seconded by Ricciarelli, and passes 4-0.*

- E. 10 White Street – DEP #64 -### - Public Hearing – Notice of Intent for Safe Harbor Marinas - Hawthorne Cove, 10 White Street, Salem, MA.** The purpose of the hearing is to discuss the proposed replacement and relocation of approximately 8,500 SF of timber floating docks within the existing zone of reconfiguration for C-Dock; and the replacement and relocation of 22 floating dock guide piles, plus an additional 6, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Dan Robbins: Looking to replace sea docks, southernmost dock, and configure those in zone of reconfiguration. Current zone was authorized and licensed back in 2015. At the time had a fixed pier and floating docks ran adjacent.

Since then, fixed pier has been removed. Looking to provide additional and safer access between docks B and D.

Would be removing floating docks that currently exist and replacing guide piles with a mixture of steel and timber piles. 22 existing guide piles to be replaced. Plus 6 additional new piles.

Additionally worth noting, we received notice from DMF that they prefer pile driving be done with vibratory hammers.

*A motion to close the public hearing is made by Glode, seconded by Campbell, and passes 4-0.*

*A motion to issue an order of conditions subject to special conditions is made by Ricciarelli, seconded by Glode, and passes 4-0.*

- F. 16 Freeman Road – DEP# 64 -734-** Public Hearing – Notice of Intent for Freeman Builders, LLC, 5 Briscoe Street, Beverly, MA, for property located at 16 Freeman Road, Salem, MA. The purpose of the hearing is to discuss the proposed construction of a single-family residence with associated driveway, utilities, grading and landscape improvements, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Bob Griffin: Lot that previously had a single family home in within buffer zone. Looking to replace previous structures with new single family home and joint garage. Previous structures recently torn down, lot is currently empty. Proposing three wetland markers to permanently note to future home owner the wetland area abutting.

Greg St. Louis: Was there a reason for the complete demolition?

- Bob Griffin: Property was just in really bad shape.

*A motion to close the public hearing is made by Ricciarelli, seconded by Campbell, and passes 4-0.*

Greg St. Louis: Would just like to note, make sure you don't generate any nuisance runoff from grading plan. There needs to be micro topography to address any runoff.

*A motion to issue an order of conditions subject to standard conditions is made by Ricciarelli, seconded by Glode, and passes 4-0.*

- G. 115 Swampscott Road – RDA -** Request for Determination of Applicability for DiLisio Golf Range, LLC, for property located at 115 Swampscott Road, Salem, MA. The purpose of the meeting is to discuss the management of phragmites and invasive vegetation within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Brian LaClair: Here to share updates on thoughts discussion held during November 2021 commission meeting.

Consulted with Bob Manuel. Advised that the approach we are proposing is the correct way to deal with this specific situation. Concluded that we will move forward with weedwacker removal when plants are very short (no seeds during this phase).

Greg: Thank you for doing the requested research. Noting that the goal is to eventually replace with non-invasive species

Public comment:

Chris Burke: Thought a large section of phragmites was already cut? I assume this would be a large violation with a remediation plan. Violation of Wetlands Act and of Conservation Restriction. I urge you to re-read deed to understand the right the Commission holds over the land. Think there should be possible remediation by DiLisio.

Greg: Currently looking into other issues to say what control the Commission has. We are not in the business of fining people who work with us and communicate their intentions.

Brian LaClair: Original cutting followed verbal approval from the then conservation agent. This is a constructive swell. We are not removing roots. Roots will serve as a positive feature stabilizing the ground.

*A motion to close the public hearing is made by Glode, seconded by Ricciarelli, and passes 4-0.*

*A motion is made for a -2,-6 by Glode, seconded by Ricciarelli, and passes 4-0.*

### **III. OLD | NEW BUSINESS**

#### **A. 16 Nurse Way – DEP# 64- 613 - Certificate of Compliance**

Greg St. Louis recommends tabling. Commission previously asked applicant to come in with roadway in order to release the last lot. Applicant is not present.

#### **B. Ratification Cease & Desist Order - SciFi Networks**

Greg St. Louis: To briefly summarize, the Commission approved a pilot project on Jefferson and Jackson Street. In the course of business activities, SciFi Networks was trying out other construction means and methods. They did not fully understand the Massachusetts Wetlands Protection act and accidentally started installing conduit and trenching through our jurisdiction. The Commission called them on it. SciFi Networks complied with cease and desist.

They chose to dig in a private way, opposed to a public way, thinking it skirted the permit requirements. Personally think they don't understand what our resource areas are. Think it would serve to revisit SciFi Networks to help them further understand.

*Commission holds a roll call vote to certify the cease and desist indefinitely, passing 4-0.*

#### **C. 2022 Regular Monthly Meetings - Hybrid/Remote**

The Commission has split feelings on going hybrid and ultimately agrees to an “all or nothing” approach. Further deciding to remain remote until further notice.



#### **IV. APPROVAL of MINUTES**

- A. September 21, 2021 Meeting Minutes**
- B. October 19, 2021 Meeting Minutes**
- C. November 16, 2021 Meeting Minutes**

*A motion to approve September 21, 2021 minutes and October 19, 2021 minutes is made by Ricciarelli, seconded by Campbell, and passes 4-0.*

#### **V. ADJOURNMENT**

*A motion to adjourn is made by Ricciarelli, seconded by Campbell, and passes 4-0.*

**The meeting adjourned at 10:12 p.m.**