

Salem Conservation Commission Minutes of Meeting

Date and Time: Thursday, March 8, 2018, 6:30 p.m.
Meeting Location: Third Floor Conference Room, City Hall, 120 Washington Street
Members Present: Chair Gregory St. Louis, Gail Kubik, Dan Ricciarelli, Bart Hoskins, Scott Sheehan (5)
Members Absent: Tom Campbell, Tyler Glode (2)
Others Present: Ashley Green, Conservation Agent
Recorder: Stacy Kilb

1. Bridge Street Reconstruction Project (DEP #64-637)—Continuation of Public Hearing—Notice of Intent for the City of Salem, 120 Washington Street, 3rd Floor, Salem, MA. The purpose of this hearing is to discuss proposed roadway and intersections improvements along Bridge Street from Boston Street to Flint Street and along Goodhue Street within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.

Chuck Dam, City of Salem Engineering, recaps what happened at the last meeting, and the report on Land Subject to Coastal Storm Flowage (LSCSF) vs. Bordering Land Subject to Flooding (BLSF) has been refined. Rick Azzalina of Stantec, Project Manager, will provide an overview, and CDM Smith has peer reviewed that report. Bob Parsons will present the Peer Review.

Rick Azzalina provides an overview of the project, which will revamp Bridge St. as a complete street. Roadway area will be reduced from 52' to 37' wide by widening sidewalks, which accounts for the fill in the floodplain. The improvements will be similar to those completed on Grove St. New LED lighting signal equipment will be installed at the Bridge and Flint St. intersections. A multi use trail connection will be behind the apartments at Goodhue St.

At the last meeting, preliminary findings were presented, and since then an internal Quality Control review was performed. As a result, some adjustments in the report were made. Elevations have increased by four tenths.

Stantec provides an overview of the adjustments to the modeling. A graphic shows flooding/ponding in the roadway at mean high water and a 100 year riverine event. Elevation went from 7.05 to 7.55, so as a result, the highlighted areas in the project experience ponding.

Deb Duhamel of Stantec recaps what was previously presented, and describes what was reviewed. She describes several factors that make it harder for the water to move and that lead to an increase in elevation as described above, of .4. She ran this model against three downstream boundary conditions, which are described as mean high high water, mean high water, and the downstream elevation from the FEMA study. Findings were:

- Mean high high water: flood surface elevations ranged from 7.55 at upstream end to 7.33 at downstream end
- Mean high water ranged from 7.07 to 6.8 downstream
- 10 foot was consistent with FEMA at 10.13 upstream 10.16 downstream

The concern is that there is a 10' tall wall along Bridge St. Water at 7' would not flood over the wall, but there are hydraulic connections from drain lines that allow water to come in; this is more of a ponding situation than a flooding situation. The absence of flap gates means water can come back in, if there are flap gates water cannot exit and drain until there is enough variation to open the flap.

Chuck Dam notes that at the last meeting, it was decided that there would be a peer review of the modeling, and CDM Smith was the peer reviewer selected by Commission. Bob Parsons speaks, describing his work to confirm the resource area determination within the project.

Modeling files were provided to CDM Smith from Stantec and were reviewed at length. A wetlands scientist also reviewed to confirm the determination of this as LSCSF. The peer reviewer agrees with that determination; figures are shown of a Plan and a Profile, drawing boundaries between resource areas seen and depicted in the model. Up to the Grove St. culvert is LSCSF, consistent with Stantec's findings. Other nearby projects had similar results.

The deliverable is a memo highlighting the elements of this determination and comments from the model review. Some comments have since been addressed by Stantec; comments did not affect or change the determination of this as LSCSF. This changes a bit more upstream, where things becomes more interactive north of the Grove St. culvert near Howley St. in Peabody, where it is more riverine. The Peer Reviewer will issue a final memorandum as early as next week.

Chair St. Louis discusses information about the Coastal Flood Dominant area, which, it is confirmed, extends several hundred feet north of/upstream from the Project Area, beyond Grove St. to the bridge. Red areas on the graphic represent the 100 year riverine impacts to mean high high water.

Hoskins also asks about the areas in red, as he has not seen ponding occur under descriptions described, so wonders if this really reflects what will be designed. During extreme tides, he could not distinguish ponding from puddles due to construction. Chair St. Louis notes that they are highlighting coastal impacts due to tidal sways. Thus the inflection of riverine vs. coastal dominant has been cause of consternation all around for a long time. How does one classify, via the Wetlands Protection Act, this intermediate area? Chuck Dam notes that there is a debate, and that he was focused on project area. The culvert does impact things.

Chair St. Louis notes that if this is taken as BLSF, the AE would be 7.55-7.33 from mean high high water. The question is, in an extreme scenario, would 100 cubic yards of fill in a riverine floodplain be allowed. Comparatively, being in a tidally dominant area, there is not a compensatory mitigation requirement. This was the premise of previous interactions with the DEP on other projects, in order to get clarity and highlight local knowledge and additional information; whereas we may take it for granted, others who are not residents may not be aware of that information.

Chair St. Louis notes that the State can still choose to take action and that two previous projects have Superseding Orders. Bart Hoskins asks if there is a way to share this information with the DEP, as it would clarify the Commission's reason for determining this area as LSCSF. Chair St. Louis comments that in the Order, other items such as Peer Review, memorandum, and graphics can be attached, including the supplemental North River Hydraulic Evaluation, that were not part of the original submission to the DEP. PDF copies of all items should be obtained from the Applicant and added to the Order. The Commission already has some items. Ricciarelli asks if there is a Plan B if the DEP disagrees with the Commission. The Project is funded through a Mass Works grant, so there is a permitting ombudsman who works for the state; if project funding would be jeopardized, the ombudsman would work with the DEP to resolve any issues so that the project could move forward. The Chair has worked in communities where part of the Order of Conditions is that every Peer Review letter and all responses, chronologically, are included. He feels that this should be done in this case to show that the Commission has gone above and beyond its usual duties in seeking such a qualified opinion.

Chair St. Louis opens to public comment and Joyce Kenney notes that the whole section was totally flooded on March 1st, during an extreme high tide.

A motion to close the public hearing is made by Campbell, seconded by Ricciarelli, and passes 5-0.

A motion to issue the Order of Conditions, subject to all Standard Conditions, and including that the final memorandum from CDM Smith is made by Ricciarelli, seconded by Kubik, and passes 5-0.

Brief discussion occurs amongst Commissioners regarding the general state of the area.

2. **441 Lafayette Street Dock and Float Repair (DEP #64-XXX)—Continuation of Public Hearing—** Notice of Intent for Mark Mazuzan, 441 Lafayette Street, Salem, MA. The purpose of this hearing is to discuss proposed repair and replacement of a dock, float, and mooring at 441 Lafayette Street within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Applicant requests to continue to the April 12, 2018 meeting.

A motion to continue to the April 12, 2018 meeting is made by Hoskins, seconded by Sheehan, and passes 5-0.

3. **132-144 Canal Street Redevelopment (DEP #64-644)—Continuation of Public Hearing—** Notice of Intent for Canal Street Realty LLC, Canal Realty Development LLC, Canal Street Warehouse LLC, and Canal Furniture LLC all of 50 Dodge Street, Beverly, MA. The purpose of this hearing is to discuss the proposed redevelopment of the properties located at 132-134 Canal St, 142 R. Canal St and 144 Canal St including razing of the buildings at 134 and 144 Canal St and constructing three new buildings with associated driveways, 240 parking spaces, landscaping, utilities, and drainage systems for stormwater runoff within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Applicant requests to continue to the April 12, 2018 meeting.

A motion to continue to the April 12, 2018 meeting is made by Hoskins, seconded by Kubik, and passes 4-0 with Ricciarelli recused.

4. **7 Riverbank Road Garage Addition (DEP #64-646)—Continuation of Public Hearing—** Notice of Intent for Alexander Brown, 7 Riverbank Rd, Salem, MA. The purpose of this hearing is to discuss the proposed construction of addition to an existing single family house, expansion of an existing driveway, and associated site work at 7 Riverbank Rd within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

This item is tabled at first, as the Applicant or a representative is not present. It is heard after Item 5.

Tony Capachietti of Hayes Engineering presents this project. The garage addition was presented at the last meeting and is again described, along with infiltration and drainage options. These include a trench and Belgian Block apron across the end of the driveway. Moving the garage forward was discussed with the architect; it is no longer desirable as it would be substantially more expensive. The distance from the base of the garage to the edge of the right of way is 22', with 2' of that going to Belgian Block. The driveway is slightly longer than it would be otherwise, to accommodate boat storage.

If the Zoning Board of Appeals requires changes, an amended Plan will be filed with the Commission, unless the garage moves away from the resource area, in which case it would just require a minor modification.

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

A motion to close the public hearing is made by Ricciarelli, seconded by Hoskins, and passes 5-0.

A motion to issue the Order of Conditions with standard is made by Ricciarelli, seconded by Kubik, and passes 5-0.

5. 10 River Street Shed—Public Hearing—Request for Determination of Applicability for Stephen and Ann Whittier, 10 River St, Salem MA. The purpose of this hearing is to discuss the construction of a 96 square foot shed at 10 River Street that was initiated prior to a Determination of Applicability within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Justin Whittier of 10 River St. represents the Applicant. The project is within the 100 foot buffer zone to the flood zone. An adjacent garage is on a separate lot. The Applicant was not aware that the project was within Conservation Commission jurisdiction until informed by the Building Inspector; this is only subject to local Ordinance, not the Wetlands Protection Act. This is for new construction. No re-grading will be done, and holes for posts that the shed will be built on are already dug.

Chair St. Louis notes that Salem has a buffer to the flood plain because the plain changes every few years and if they plan projects in the buffer zone, Applicants should be aware that the area could flood. Mr. Whittier shows flood plain levels on an illustration. The grade is on a slope; grade would be 18' above sea level and 8' above flood level. The Flood Hazard Overlay District (FHOD) map coincides with FEMA map.

One public comment sent by email is read into the record. It is from Cynthia Johnson at 13 River St., in support of the issuance of a negative determination.

Carole Carr of 7 River St., also a neighbor of the Whittiers, comments on the quality of their projects, and is in favor of the shed.

A motion to close the public hearing is made by Sheehan, seconded by Hoskins, and passes 5-0.

A motion to issue a negative 6 Determination is made by Hoskins, seconded by Kubik, and passes 5-0.

6. Old/New Business Cont.

- **Witch Hill Subdivision, DEP #64-391, Request to Extend Order of Conditions.**

Mr. Ken Steadman, Developer, presents the Request. Three lots remain under the Order of Conditions for the original five lots. Utilities including water, sewer, gas, and light posts, as well as roadway binder and asphalt, are installed. Curb and sidewalks are also installed. Mr. Steadman is hoping to sell the remaining lots this year and do final asphalt paving in the spring. Also remaining is to plant trees; Planning Board input has been sought, and he will be trying to plant to the back side of the sidewalks due to lack of space. He is requesting an extension as the Order is expiring; a three year extension is requested but he hopes to be done by next spring. Everything on the two lots developed is stabilized.

Ashley Green asks about the replication area; Mr. Steadman says that 700 square feet will be replicated and the area originally desired was ledge, so it needs to be moved. Half of the 700' would be relocated. It will be in the same wetland series so the Chair feels this is acceptable. It will be pictured on the As Built. The timeline for replication is in the spring. Chair St. Louis comments on the conservation land 10' strip behind properties; the fence proposed is on the original Plan but has not yet been installed.

A motion to extend the Order of Conditions for three years is made by Hoskins, seconded by Ricciarelli, and passes 5 -0.

- **Shetland Park, 47 Congress Street, Ratify Enforcement Order.**

This is regarding the dumping of snow into the river after January's snowstorm. Shetland Park has been notified and hired Bill Tinti, land use attorney, to represent them in this matter. While unable to attend this meeting as they are not yet prepared, they would like to attend the next one. If this is to be made official, the Enforcement Order can be ratified tonight. Ashley Green has asked them to come in with a snow removal and storage plan. This appears to be an ongoing issue, as the complaint received by the Commission states that it has been happening for years. The file has a record of this issue happening 10 years ago; the decision to issue an Enforcement Order was made because it is ongoing issue. There is photo documentation of this incident. The Enforcement Order simply instructs the offender to attend a meeting and discuss, and there is no fine associated with it at this point. There is some discussion as to who is aware of snow management and responsible for this; Eric Hahn, who responded, can help discuss this.

Chair St. Louis outlines the usual procedure for a violation:

A letter notifying the offender is sent

If the issue is not resolved, an Enforcement Order is sent

If the offender still does not act, the Enforcement Order is recorded on their deed and fines are assessed

Thus far, Shetland Park has been cooperative, so nothing has been recorded at this point. Courses of action are discussed, as is whether or not the contractor should be present for the discussion.

A motion to Ratify the Enforcement Order but withhold recording at the Registry of Deeds is made by Sheehan, seconded by Hoskins, and passes 5-0.

- **Former Salem Oil & Grease Former Tannery Infiltration Area, DEP #64-604, Request for Minor Modification.**

Luke Fabbri of Geological Field Services presents. Asbestos abatement has been finished in the soils. Remediation phase of the Former Tannery Infiltration (FTI) area is beginning. Salem Oil and Grease purchased a former tannery in the 1960s. The various contamination issues and decontamination work done across the site thus far are described, as is the upcoming work. At issue are the sludge beds. A letter with further details on this request has been submitted to the Commission. A berm from one portion of work remains but must be removed as it visibly contains tannery wastes that Mr. Fabbri was not previously aware of. The area was dug and then temporarily backfilled in anticipation of a then-upcoming storm event.

Timing is an issue as all contaminated material has to be disposed of at the same time, thus must be stored onsite until the train to Niagara, NY takes it away. Storage of materials is described.

The location of the recently discovered additional tannery waste is described; it can be seen hanging from an undercut bank into the river. Its removal and the subsequent bank reconstruction and armament are described. Sandbags will be used to section off an area during one tide cycle, then the material dug out the next day. The procedure and timing of work is described. Work can be completed in one tide cycle as this request is for only one small section of the bank; Mr. Fabbri is not intending to do the full bank reconstruction at the time of this removal.

The layout of the sandbags is outlined, and Mr. Fabbri notes that he would be happy to demonstrate how they would work and have Agent Green inspect them before work begins.

Tannery waste depths and locations are described. This work affects about 30 linear feet of bank. Depths that have already been dug are discussed. The grades of the AUL area are described. Efforts to secure the site before it was inundated by the last storm are described. Additional upcoming efforts regarding the removal of contaminated material are described. The armament to be installed is described.

Mr. Fabbri requests a time of work restriction from an hour before to an hour after low tide, with no work to occur if there is any precipitation 72 hours beforehand due to height of the water. Sandbags would be removed as soon as work is done. The logistics of fabric, stone and armament placement are discussed. Appropriate sloping can be arranged later.

Mr. Fabbri notes that once sludge bed remediation is finished, and asbestos abatement is done, the property transfers to Mr. Anthony Roberto for the completion of this project. Chair St. Louis advises Mr. Fabbri to make sure that the change of ownership is documented in the Order of Conditions.

The situation with the DEP is discussed; they are aware of the work to be done and have no objections, provided the Conservation Commission also has none. There is an Immediate Response Action for the sludge bed and asbestos remediation. There is a Superseding Order of Conditions on the entire project and an Order of Conditions only for the FTI area.

Mr. Fabbri is requesting to use sandbags to keep the area he needs to remediate dry with the above listed restrictions. He estimates 50-100 yards of material will be removed. The original Order was for sheet piling or a port-a-dam, which would require bracing (and would not be used). This is only for this portion of bank remediation as contamination so close to the riverbank was not expected.

Mr. Fabbri is more than willing to do a sandbag demonstration if the Commission wishes. He will not do any more work beyond what can be accomplished in a day. The whole area will be sandbagged the day before, and on the day of the digging work will be done in sections, though all in one tide cycle (three hours). Digging work would take bank down above the water table as tide goes down, and he will take out the last row when the tide is below the sandbags, stockpile the materials into a truck, lay down fabric and stone, then move over and do the next piece, while a backhoe places stone on the piece that has just been finished. He has plenty of equipment and four operators, who will be focused on this location. Logistics of the work and how the water flow will be directed are described in detail. Sandbags will be lowered down with the excavator bucket but placed by hand. There will be two rows on the bottom with a third overlapping in the middle for a height of 20", which can be made higher if necessary.

Chair St. Louis asks that Mr. Fabbri photo document the process, and the Commissioners will do a site visit. Mr. Fabbri reiterates that this work will be weather dependent and will not happen in the next 10 days (before March 18th). Setup will occur on day 1, Agent Green will come out to inspect the setup on day 2, and his team will so the work on day 3 in a reasonably dry stretch of weather. Tide and flooding levels are discussed.

A motion to approve the minor modification is made by Hoskins, seconded by Ricciarelli, and passes 5-0.

- **Request to extend Order of Conditions for dredging for DEP File #64-588 Brewer Hawthorne Cove Marina Dredging**

Presenting for the Applicant is Noah Flaherty of Brewer Hawthorne Cove Marina, who notes that the dredging approved under this Order has not been completed yet due to state and federal permitting, contractor availability, and funding. They are requesting a full three-year extension, and will not be starting any work this calendar year. The project is large and will be done in phases.

A motion to extend the Order of Conditions for three years is made by Hoskins, seconded by Sheehan (not on

notes, guessing), and passes 5-0.

- **Discussion on adoption of land use regulations of lands under the control of the Conservation Commission.**

Tabled until the next meeting.

- **Discussion on feasibility of repair and/or replacement of Volunteers Bridge at Forest River Conservation Area.**

Green updates. The grant application will be submitted for another project this year (not Volunteers Bridge), but Tom Devine asked Rob Borella if the work suggested at the last meeting is the best option. He said the bridge footings should not be reused and existing materials cannot be salvaged. The current location is likely best, as it would be necessary to realign the trail if the bridge were moved. Other reasons why this is the best area for it are outlined. Ricciarelli mentions that the Commission may want to discuss this in more detail with Rob Borella. Green will set up a call with him at the next meeting. Types of piles are discussed; bridge materials and methods used in Beverly are described by the Chair. This will be further discussed at the April meeting.

- **Discussion on wetland boundary marker design.**

Different animal graphics and wording options are described. Cost is the same no matter what the design. Where the markers get placed is discussed, whether at the buffer. One issue is whether or not to include “wetland” as some areas protected by the Commission may be other resource areas, not necessarily wetlands. The Commission decides on “Protected Wetland Area” with a heron graphic.

- **Meeting minutes—November 16, 2017, December 13, 2017, and January 8, 2018.**

A motion to approve all three sets of minutes, with minor corrections, is made by Hoskins, seconded by Kubik, and passes 5-0 with all in favor.

A motion to adjourn is made by Ricciarelli, seconded by Sheehan, and passes 5-0 with all in favor.

The meeting ends at 8:31PM.

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission

Know your rights under the Open Meeting Law M.G.L. c. 30A §18-25 and City Ordinance Sections 2-2028 through 2-2033.

Approved by the Conservation Commission on July 12, 2018.