

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, Oct. 8, 2015, 6:30 p.m.
Meeting Location: Third Floor Conference Room, City Hall Annex, 120
Washington Street
Members Present: Chair Gregory St. Louis, Tom Campbell, Bart Hoskins, Dan
Ricciarelli, Gail Gambarini
Members Absent: Tyler Glode, Bob Pond
Others Present: Tom Devine, Conservation Agent
Recorder: Stacy Kilb

Chair St. Louis calls the meeting to order at 6:37PM.

1. 120 Swampscott Road Headwall Repair—Public Hearing—Notice of Intent—Angelo & Carmine Mongiello, 55 Eastman Avenue, Swampscott, MA. The purpose of this hearing is to discuss proposed repair of an existing headwall at 120 Swampscott Road within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Here for the applicant is Bill Manuell from Wetlands & Land Management. He describes the project, which was under an expired Order of Conditions to build and repair the wall in the past. He describes the stone culvert under the driveway. He describes the damage and how they plan to restore the wall and fence. Crushed stone will be applied. Hay bales will be installed to provide an extra level of filtration for runoff. Mr. Manuell considers this a maintenance project and would like to complete it before the winter. The applicants are masons and will do the work themselves, mostly by hand, except for moving larger rocks by machine.

Chair St. Louis asks about the property and Mr. Manuell clarifies. The wall will not be in the right-of-way. The culvert will be extended by perhaps 6"; they plan to use large base stones. Ricciarelli asks about the wall structure but it cannot be battered back. Devine has visited the site and confirms that repair is needed. The applicant considered filing an RDA but wanted to be sure they could start the work ASAP. Devine says that there are ongoing drainage issues on Robinson Rd. and describes some solutions in the works. This does not deal with any of those larger drainage issues, so a flow of water could push sediment from the gravel road into the waterway; the hay bales are a good interim solution. Devine received a phone call from Mike Ferris, an abutter, who is not present, but stated that he objects to the project as he believes it is on his property. Devine recommends making explicit that which is normally implied, that an order of conditions doesn't grant an applicant the right to work on property without owning it or receiving permission from the owner. The applicant is confident that this is on their property.

Chair St. Louis asks about the categorization of the stream. It was categorized as intermittent but Mr. Manuell is not certain when or how it was categorized as such. Stream Stats or lack thereof is discussed. The next item is regarding a different stream. Logistics of the property and abutting watershed are discussed; St. Louis would like to know if it is a perennial stream or not but Mr. Manuell is not certain. Chair St. Louis states he is generally in favor of repairing a headwall; other Commissioners agree. All

walls over 5' require building department structural review. There is a large staging area. Chair St. Louis suggests ¾" or larger crushed stone with fabric behind the granite/field stones. The applicant will use 1.5" stone and do their best to drape in the fabric.

Michael Hutchinson of 25B Greenwood Rd. Peabody, confirms that Mr. Ferris' objection is noted.

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.

Special conditions:

All work must be conducted on the applicants property, or if not, with permission from the owner. 1.5" or larger crushed stone must be used.

Filter fabric to the extent practicable must be placed behind the repaired wall.

Straw bales should be substituted for hay bales to avoid introducing invasives (now a standard condition).

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

2. 120 Swampscott Road Stream Classification—Public Hearing—Abbreviated Notice of Resource Area Delineation—Angelo & Carmine Mongiello, 55 Eastman Avenue, Swampscott, MA. The purpose of this hearing is to determine whether a stream at 120 Swampscott Road is classified under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance as perennial (with riverfront area) or intermittent (without riverfront area).

Bill Manuell of Wetlands and Land Management presents again. The USGS map shows the stream channel as perennial, and when shown as such it is presumed to be perennial, unless rebutted by information from a competent source. This information would be a viewing of the stream channel four days in a year, attested with photographs, which are provided. He describes the stream, area, and locations viewed. He would like to verify that the southerly stream is intermittent, which will resolve an issue if anyone was looking to purchase the property. Mr. Scott Patrowicz has also been viewing and documented this stream. Devine has also visited the stream; during the visit it had no flow after a large rain event. Mr. Manuell would like this Commission to issue an ORAD. The status is only applicable to the southerly stream and no other area. The property is for sale and buyers would see a perennial stream and assume a large portion of the property is riverfront area, unless this ORAD is issued.

Campbell confirms that Mr. Manuell has observed the stream at various times; Hoskins asks if there was ever flowing water. There is at some points but not always. Chair St. Louis states that it has been viewed in a dry season, but we are not in drought conditions.

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

An Order of Resource Area Delineation is being requested (ORAD). The Commission can reference the

specific plan shown and specify that it is the southerly stream. This will override the USGS map designation and list the stream as intermittent.

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

A motion to issue the Order of Resource Area Delineation (ORAD) is made by Hoskins, seconded by Ricciarelli, and the motion passes 5-0. This motion is for the stream shown on the USGS map as perennial, now being changed to intermittent, which runs along the southern boundary of 120 Swampscott Rd., from the western property line to the eastern frontage on Swampscott Rd. The ORAD is to the status of the stream only and does not include any other resource areas, including but not limited to bank or wetland boundaries.

Procedures for identifying wetland boundaries are discussed.

3. Salem Willows Yacht Club Pier Repairs—Public Hearing—Notice of Intent—Salem Willows Yacht Club, 190 Fort Avenue, Salem, MA. The purpose of this hearing is to discuss proposed repair of an existing pier within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance at 190 Fort Ave (Salem Willows Yacht Club).

Susan St. Pierre of Susan St. Pierre consulting presents

Jim Garfield, Tom McGlaughlin and Lou Schoenthal are also present.

St. Pierre describes the Yacht Club at Salem Willows. This NOI is for the secondary pier. In 1979 and 89 this project was before the Commission, under a Negative determination in that activities did not create adverse impact. A Notice of Intent is submitted this time. The proposed work is described.

There will be 4 new piers but 11 existing footings reinforced with concrete. The launch shack will also have one footing repaired. This is land under ocean, coastal beach, rocky intertidal shore, coastal bank, and land subject to coastal storm flowage. Temp work will involve pile cutting and installation. 20 square feet of disturbance will occur. All work will be performed by North Shore Marine; they are hoping to work in the fall and have submitted to Chapter 91 as a minor modification. There will be a barge, and all work will be done by hand at low tide.

Gambarini asks to clarify that there will be four new piers going out (two per side). Further details are discussed. Chair St. Louis suggests that piers should be painted, but the new ones will be pressure treated. Chair St. Louis asks about relocation of one of the boulders; it should be relocated vs. removed.

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

There will be no excavation of coastal beach and piles will be attached to bedrock.

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

Devine comments that some work will be below mean high water but that box was checked “no” in the

NOI. If the Commission is agreeable, Ms. St. Pierre can now send copy of the NOI to DMF, as she would have if she had checked yes.

All material in the affected areas should remain in or near its original location.

A motion to issue the Order of Conditions with the one special condition above is made by Ricciarelli, seconded by Hoskins, and passes 5-0.

4. Former Salem Oil & Grease Former Tannery Infiltration Area—Public Hearing—Notice of Intent— Michael Hubbard of MRM Project Management, LLC, PO Box 388, Beverly, MA. The purpose of this hearing is to discuss proposed remediation and restoration of the former tannery infiltration area and associated bank stabilization within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance at 3 Harmony Grove Road & 64 Grove Street (former Salem Oil & Grease).

Bob Griffin of Griffin Engineering presents, along with Luke Fabbri of Geological Field services. Griffin reviews the site development plan, currently under an Order of Conditions from early 2013. The DEP was not comfortable with the bridge work under that Order and appealed, so it was under a superseding order and went through the MEPA process, which has been completed. A draft EIR was published. DEP was uncomfortable because it wasn't sure of future flood improvements in Peabody. The applicant gave up on that location for a main entrance, so selected another and presented it to the Planning Board. As approved by that board, there will be fewer apartment units, a bike path, and they will reuse the existing bridge for only pedestrians and bike traffic, so the new main entrance will be on Grove St. The DEP issued Superseding Order of Conditions in July 2015, but one issue they exempted was remediation of the sludge bed area.

Thus, this Order of Conditions only addresses remediation of that area; a Ch. 91 permit is on its way and the project has been filed with the Army Corps of Engineers for work in the river.

Mr. Fabbri describes the sludge bed and remediation to be done. There are 16,000 square feet of remediation. The temporary staging area is shown and the work will happen mostly on a paved area, with erosion controls and temporary fencing. A soil cap will be placed once remediation has been completed and then bank stabilization will occur. The remediated area will be planted as per the schedule approved in 2013 but the scope has increased from the original 10,000 square feet. DEP exempted the work on remediation because Mr. Fabbri was still consulting as the LSP of record on that site, so they are here for that.

The DEP had requested additional assessment in shallow soils, so samples were collected. Four changes took place as a result:

- 1) The applicant was uncertain whether they would cap the site or remove sludge offsite; as proposed, they will be taking material in basins offsite for disposal.
- 2) The original area was 12,000 square feet; the current area is extended east and west.
- 3) A 1' cap was originally proposed; now it will be a minimum 18" cap with a geomembrane or a 2' cap. This is still to be determined.
- 4) The bank is being undercut and the DEP would like an armament to prevent that.

Mr. Fabbri owes the DEP a phase 4 document for the entire site plus this area (soil management process). For this location, he describes the work proposed. The history of the site is described. He specifically describes the remediation areas and what was found, as well as the staging area and truck wash facility. They will try to limit contact. They will use roll offs to remove the contaminated material so they do not need to wait for trucks to load, unload, and return. Roll offs will be lined and covered, as some odors are expected. They will also be closed at the end of the day. They will have preapproval once 4 to 5 roll offs are loaded to bring them offsite. He outlines how the road will be made to prevent contamination of trucks, and also describes the wash station more thoroughly. The grade of the entire area will be dropped. Removal of material will take approximately a week, with site prep, capping and plantings on either end of that taking about a month.

Mr. Fabbri would like to complete the removal during the winter to contain the odors better. He describes the tannery operation and residual materials left. The DEP has requested some additional data and testing, that is already part of the work plan. Also there are different risk calculations for residential areas, which this site does not pass, thus the necessity of this work. Other features of the site are described. Health and Safety, Soil Management, and Waste Management plans are in place.

Ricciarelli asks if there will be a bridge later on. The current one will be improved as a shared use pathway, but that's it. Abutments will also be improved, but whatever other improvements are made, whether in Peabody or to widen the bridge, it will remain for pedestrians and bikes only. A cost analysis was done and it was found that removing the materials vs. leaving them and capping them had similar costs. There is an AUL on the property already. Any new owners are required to comply with Phase 4 requirements.

Hoskins asks about snow storage and Mr. Griffin outlines options. Hoskins also asks about invasive species control and how to prevent them from overrunning the plantings. Mr. Fabbri states that surface material will be taken off and used as backfill. Invasives, materials and other plants that are currently present are described.

Chair St. Louis asks about the process; the process with DEP is finished. Why was a decision made not to amend the superseding order? That order specifically requires a filing of a new NOI for this particular area. Mr. Fabbri describes his imminent hazard for a trespasser scenario. There is only long term risk but not imminent hazard. Also they wanted this area separated because they wanted to evaluate dioxin concentrations. Risks and contaminants are further discussed, as are Mr. Fabbri's ongoing conversations with the DEP. None of the groundwater is contaminated; it's all in the soil. Chair St. Louis also asks about the size of the riprap and Mr. Griffin outlines that and the logistics of the stream. There is a slight increase to pervious surfaces as a result of the project. Mr. Griffin provides an extra copy of the amended site plans to the Commission, and can submit them to Devine in PDF format.

Gambarini asks about the coffer dam and Mr. Griffin outlines.

Chair St. Louis opens to the public but there are no comments. A motion to close the public hearing is made by Hoskins, seconded by Campbell, and passes unanimously.

Any material used as a cap will be clean fill. Any excess will be brought back onsite and used as cap. Discussion follows regarding what type of material must be under various surfaces. Separation and storage of materials is described. Discussion of infiltration of stormwater and placement of materials occurs. The applicant must segregate dirty material from clean, cover dirty with clean, and apply a managed residential AUL to the site. There can be no single family dwellings.

A motion to issue the Order of Conditions with standard conditions is made by Ricciarelli, seconded by Hoskins, and passes unanimously.

5. Riverview Place (Salem Suede Redevelopment)—Continuation of Public Hearing—Notice of Intent—DEP #64-579—Riverview Place, LLC, 5 Broadmoor Lane, Peabody, MA. The purpose of this hearing is to discuss the proposed mixed-use redevelopment of 72 Flint Street, and 67 & 71 Mason Street (former Salem Suede) consisting of 3 buildings and appurtenances within an area subject to the Wetlands Protection Act and Salem’s Wetlands Protection & Conservation Ordinance.

Applicant requests to continue to the November meeting. Because there are now only four eligible Commissioners who can vote on this issue, the applicant may have difficulty closing this item with a quorum. Devine has not yet heard from them and is submitting this continuance on their behalf.

Chair St. Louis expresses his displeasure at the continued continuances, as does Ricciarelli. Chair St. Louis asks if they can write a letter as this item has been continued for over a year. The applicant should have anticipated how long it should take, then continued for several months out. Interested neighbors are in the loop and asking if the applicant will be here. Hoskins will be out from at least November through January, possibly into February, so the applicant will not have a quorum until after then.

Options are discussed. The Chair would like to drop this application, and Ricciarelli also suggests rejecting the application and requiring them to re-file. Devine opines that the applicant should be part of any discussion and can request that they come to next meeting and that they withdraw without prejudice.

A motion to continue to the November meeting is made by Hoskins then withdrawn; the item is tabled for further discussion after items for which applicants are present are discussed.

After the items below are resolved, Devine commits to contacting Scott Grover, the applicant’s attorney. Various ideas for what to do if the applicant does not show up are discussed.

The Commission ultimately decides to continue, requesting that the applicant withdraw and the Agent will submit a letter to this effect.

A new motion to continue to the November meeting is made by Hoskins, seconded by Ricciarelli, and passes unanimously.

6. Freeman Road Extension and Houses Lots—Continuation of Public Hearing—Notice of Intent—DEP #64-590—David Walch and Scott Green of Athens Street Capital, LLC, 106 Cypress Street, Watertown, MA. The purpose of this hearing is to discuss the proposed extension of Freeman Road and construction of 3 single family homes at 20, 22, and 24 Freeman Road within

an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

The applicant requests to withdraw this Notice of Intent.

A motion to accept the withdrawal of this Notice of Intent is made by Hoskins, seconded by Campbell, and all are in favor.

7. Old/New Business

• Request for Certificate of Compliance—Lafayette Street Gas Main—DEP #64-521

The applicant has not yet provided an as-built plan; the Commission had requested either the as-built or an explanation of why one was not necessary. They provided hand drawn field notes which are inadequate and the Commission declines to accept this as an as-built. The applicant needs to provide an actual as-built plan. Devine will request one.

• Request for Certificate of Compliance—Colonial Road (Univar)—DEP #64-270

This item is taken first in old/new business. Presenting is Joseph Robb with ERM. Devine visited the site earlier today and the buildings are gone; Chair St. Louis may want to see the utility plan. This is Univar's effort to close open orders. This one is 18 years old. Mr. Robb describes the plan. Devine is concerned about whether the required restoration of bank, beach, and salt marsh was completed. Homeland Security asked them to remove some non-wetland vegetation for security scan purposes. Another office building was never built. Mr. Robb describes the curbing (Cape Cod berm, not granite) as well. Devine also mentions a condition regarding oil and gas traps on catch basins. Mr. Robb believes they are there but did not take off covers to verify; that can be done. The as-built vs. proposed were compared and most drainage matches up. The Order was issued in 1997 and work done in 1998.

Chair St. Louis discusses drainage differences between an aerial photo and the plan. The work done is described and discussed. Sheetflow is described. Chair St. Louis comments on the stormwater drainage system and it is reviewed. Chair St. Louis asks about concerns regarding runoff from asphalt into wetlands.

Chair St. Louis states that there are two missing catch basins along with differences in the curbing along the wetland edge. Mr. Robb describes the drainage. Chair St. Louis asks if the Commission would like to address those issues. He asks that Mr. Robb contact Meridian for additional information to verify the existence of the missing structures or any other changes that would address the issue. Ricciarelli suggests talking to the City Engineer. Additional clarification of where water drains to the wetlands is also requested. Mr. Robb can arrange access for Chair St. Louis if he would like to visit the property; they will not be happy with the delay as they are trying to refinance. Ricciarelli opines that it would be good if someone from Meridian could walk the site and confirm that the structures and curbing are either present or not needed.

Devine reminds the Commission that a special meeting could be requested in urgent cases like this. It would be for Thursday, Oct. 22nd. Mr. Robb will see if he can gather the information in that timeframe.

Devine needs a week's notice under open meeting law. Site walk logistics are discussed and one is set for Thursday, Oct. 22nd at 5:30, to be posted publicly as a site visit. Hard hat, safety glasses and steel toed boots are required. Security protocols require that names of visitors be provided beforehand; that would be the seven Commissioners but there is no way to know who, if any, members of the public would attend. Any members of the public who wish to attend should contact Devine 48 hours in advance. If Meridian lacks an as-built, missing structures should be confirmed as overlooked or the need for them confirmed obviated.

• **Request for Certificate of Compliance—Colonial Road (Univar)—DEP #64-354**

Mr. Robb presents again. Sediments of Mill Pond were impacted by chromium and required remediation. Work included removal of sediment and vegetation (phragmites) from the pond, targeting the top 18". Work is described. This was an Order issued to the former owners of the property. Photos are included in the Notice of Intent. Additional photos and information can definitely be provided in this case. A letter is also provided, written in 2010 from BASF as a summary of the remediation work to support efforts to obtain a Certificate of Compliance, which was not obtained. Chair St. Louis asks if any other document from BASF states the final outcome but Mr. Robb has not seen one. Chair St. Louis would like to see something by an LSP stating that all excavated material was removed according to plan.

Hoskins asks about the administrative status with the DEP and Mr. Robb thinks it is closed. There should also be a 2015 letter since follow up needs to happen every 5 years. Mr. Robb will look for an RAO (Release Abatement Outcome).

Devine adds that the approved plan/NOI included restoration of beach, bank, and salt marsh, but the Commission does not see how any of Mill Pond could be considered beach. The Commission needs to determine what would be adequate to be satisfied that the areas in question were restored. The NOI had specific requirements for reports and vegetation success. Devine did not get a close look and is not qualified to judge. There is a lot of phragmites, an invasive wetland plant. The applicant believes that the restoration followed a portion of the NOI that stated that, after excavation, the area should be seeded to prevent erosion. Another part of the NOI contradicts that, saying they should use other plant species.

Illustrations suggest that the area was seeded so if that is so, it suggests that the LSP took out what was intended. Current images suggest restoration was successful. The site was audited several years ago and questions were addressed. They were trying to remediate chrome soils but could not safely excavate with rail cars present.

The Commission would like documentation that remediation was completed as planned, but is comfortable that restoration was done.

This can also be addressed at the upcoming special meeting.

• **FY16 Community Preservation Plan – Request for Comment/Input**

Devine has the letter from last year with some modifications; Commissioners can give him input on how to refine it and he can have Chair St. Louis sign it, which he can do electronically. The main item is an

updated Open Space and Recreation plan that should be referenced in the updated Community Preservation Plan.

• **Update on Forest River Conservation Area trails and footbridges assessment**

Kyle Zick, who is also working on the Winter Island path, will begin a study. He will evaluate the trails, bridges, and wayfinding system. The Commission should provide a public forum; Devine suggests one could be held at the beginning of a Conservation Commission meeting. The meeting itself would start on time but the trail presentation would comprise the first ½ hour or 45 minutes of the meeting. The Commission approves this happening at the November meeting.

Miscellaneous items

Devine would like to attend an information session on the Mass. Recreational Trails Grant program, to see if it could be a potential source of funding, as the study will likely make recommendations for improvements beyond what the CPA and Conservation Commission can fund. He is thus requesting a mileage reimbursement of less than \$100.

A motion to fund said mileage reimbursement is made by Hoskins, seconded by Campbell, and all are in favor.

Bob Pond has resigned from the Commission so a Commissioner to fill that opening is being sought.

The Winter Island Trail was approved as a chip seal surface except for one spot of crushed shells; two spots are proposed to be changed to stone dust where it is flat and less likely to erode. Devine asks whether the Commission sees this as a significant enough change to require formal review. The Commission believes that this is both an improvement (since it increases pervious area) and a very minor change that Devine can approve administratively.

Devine also asks the Commission what kind of review they would want for a modular wetland to be installed at the corner of the parking lot closest to the lighthouse. The Commission determines that because it would be adjacent to the beach, a notice of intent would be needed.

• **Meeting minutes—August 20, 2015**

A motion to approve is made by Hoskins, seconded by Ricciarelli, and passes unanimously.

A motion to adjourn is made by Ricciarelli, seconded by Hoskins, and all are in favor.

The meeting ends at 9:55Pm.

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission

Approved by the Conservation Commission on November 12, 2015