

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, April 11, 2019, 6:30 p.m.
Meeting Location: Large Conference Room, City Hall Annex, 98 Washington Street
Members Present: Vice Chair Bart Hoskins, Tom Campbell, Dan Ricciarelli, Scott Sheehan (2)
Members Absent: Chair Gregory St. Louis, Tyler Glode (2)
Others Present: Darya Mattes, Conservation Agent
Recorder: Stacy Kilb

Vice Chair Bart Hoskins calls the meeting to order at 6:42PM.

II. OLD/NEW BUSINESS

A. 311 Derby Street (DEP #64-623) – Request for Certificate of Compliance

Susan St. Pierre presents. The project has been completed in accordance with the conditions, with the exception of one catch basin and line which was not installed, most likely due to cost. It was not an engineering requirement. Operations are not affected, but the water does puddle. The existing grade remained; grades and drainage are discussed.

There are no public comments.

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

A motion to issue the Certificate of Compliance is made by Scott Sheehan, seconded by Dan Ricciarelli, and passes 4-0.

B. 15 Ward Street – Conservation Restriction

Jane Guy was supposed to be present, but is not. An email was sent to Darya Mattes. A Pocket Park using CPA funds would be constructed. A conservation restriction would have to be used in order to do this; it must be accepted by this Commission and various other City agencies. The site is a vacant lot in a residential area, and is currently a basketball court, paved with some planters in front. The language is standard, put together by the City Solicitor. The lot is in the Point neighborhood. The Conservation Restriction must be granted by the Conservation Commission but it is not jurisdictional.

There are no public comments.

A motion to accept the Conservation Restriction is made by Dan Ricciarelli, seconded by Scott Sheehan, and passes 4-0. Signatures are then notarized.

III. REGULAR AGENDA

A. 32 Clifton Avenue (Forest River Park) – Public Hearing – Request to Amend Order of Conditions (DEP #64-632) for the City of Salem, 98 Washington St, Salem MA. Purpose of hearing is to discuss proposed amendment to Order of Conditions (DEP #64-632) permitting seawall

repairs at Forest River Park at 32 Clifton Avenue within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance. Proposed changes include a modified water control plan which extends the Limit of Work (LOW) seaward from the approved LOW and utilizes alternative methods for water control.

Mr. Paul Jaques, Professional Engineer and Deborah Duhamel are present. They are requesting this amendment to change the sheeting and replacing it with sandbags, and revising the restoration plan with regards to disturbances outside of the site. Work began in Nov. and in Dec. the contractor noted he could not do work under approved Limit of Work, so now there are additional disturbances in the jurisdictional areas. Sandbags were used and a temporary sand platform installed to stabilize the work area. Work was intended to be done from top of the wall, but was done from the bottom as well. At the time they found out, they decided not to stop work, but discussed this with the DEP, Conservation Agent, and Army Corps. Ultimately the Applicant decided not to further disturb the by pulling out and reinstalling. 13' off the face of existing wall was originally approved, now an additional 18' and 12', respectively, are being sought. The new total disturbance is outlined.

Changes to the restoration plan are outlined. Changes are needed due to the installation of the temporary platform; there are concerns that additional disturbance could occur upon its removal. It will be removed to within 12" of the existing grade, and the area will be evaluated to see if compression has occurred. Corrective measures will be taken at that time. Restoration otherwise will occur as planned, under the oversight of LEC Environmental, and monitored for 5 growing seasons afterward.

Ch. 91 Army Corps and water control permits are also being changed. The final design will remain as approved. Unfortunately, the contractor did not notify them before beginning work outside the scope, so this is after the fact. Restoration is still in play, and the wall is built and impacts have occurred. Sandbags were placed on top of the salt marsh, more so than planned. Impacts to salt marsh would be remediated during restoration; now, additional restoration must be done. The contractor will bear the cost of additional restoration, as he was told many times in the bidding and selection process that the limits of work were firm, and he agreed to them.

Original elevations/existing conditions are known, so the marsh can be restored. A vactor truck and hand tools will be used to remove the sand platform but the Applicant will have to wait for the DEP to commence restoration work. The peat was sinking at the original limit of work; hence they placed the sand bags further out where it would be more stable. Northern Construction is the contractor. Only a small portion of the site is salt marsh.

Sand bag placement was done over two days, Dec. 4 and 5. The biweekly construction meeting was Dec. 6 and that afternoon, calls were made to let all parties know they were in violation. Enforcement action is forthcoming from the DEP.

The Contractor on the hook for survival of plantings during the first year, but the City must maintain them for the next 4 years. Vice Chair Hoskins feels the Contractor should be responsible for more than one growing season. Three are more sufficient to see if plantings are established. The Contractor may be willing to do this in light of the violations. Timing of the monitoring is discussed. At the end of the warranty period, if the restoration has not taken, the contractor must repair the area based on the recommendations of Salem Sound Coastwatch. The project will be completed in the next two weeks; work is described. Sandbags are still in place pending DEP approval for their removal.

Restoration details have been submitted.

Judith Janvrin of 38 Shore Ave. Salem, an abutter, asks if this falls outside the walkway to Pioneer Village, as it has been deteriorating. She wonders if the seawall will protect that land from erosion and how it will impact the seawall on her property.

That area is not within this project's purview. Ms. Janvrin recommends that the City look at that project. Dan Ricciarelli asks if there are plans; this is under discussion with the City.

Ms. Janvrin also comments on dying, hazardous trees at the edge of Pioneer Village, and is concerned about the injury or damage that they could cause when they fall. Ms. Janvrin's son (visiting from out of town; no address provided) agrees. Ms. Janvrin is especially concerned as many school groups come into the area. The Tree Warden has noted that the Parks Dept. would take care of this, so the issue has been referred to them. Darya Mattes has referred Ms. Janvrin to the Parks Dept. and will also contact them directly.

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

A motion to approve the changes is made by Ricciarelli, seconded by Sheehan, and passes 4-0.

B. 331 Bridge Street – Public Hearing -- Request for Determination of Applicability for Castle Hill Group, LLC, 14 Story Street, Salem, MA 01970. Purpose of hearing is to discuss proposed demolition of an existing building and construction of four new residential units in two new buildings at 331-333 Bridge Street, Salem, MA 01970 (Map 22 Lot 0583) within an area subject to protection under the Salem Wetlands Protection & Conservation Ordinance.

Mr. Steve Lovely of 10 Federal St. presents on behalf of the petitioner. The project will be much more safe, environmentally, than the auto mechanic establishment previously there. Fuel heating trucks were also kept onsite. This was originally on the agenda for February so copies of the application are shared again.

There is a little bit of gasoline; the soil has been removed and will be trucked offsite. This is a 21E site with a tracking number; all underground storage tanks have been removed. This is jurisdictional, but Darya Mattes notes that it is only in the buffer zone to the flood zone under the local Ordinance. The site is currently 100% paved, and no grades will be changed. The neighborhood is very much in favor of this project. Elevations are described; this is the higher section toward Flint St. Vice Chair Hoskins comments that very large puddles do form there during King tides. He would not allow utilities at ground level.

There are no public comments.

A motion to close the public hearing is made by Scott Sheehan, Seconded by Dan Ricciarelli, and passes 4-0.

A motion to issue a Negative 6 Determination is made by Scott Sheehan, seconded by Dan Ricciarelli, and passes 4-0.

IV. OLD/NEW BUSINESS, CONTINUED

C. 50 Osborne Hill Drive (DEP#64-XXX) – administrative change

Darya Mattes notes the 12 NOI applications from the last meeting. Issues had to do with fees and the jurisdictional nature of 50 Osborne Hill Dr. which is, in fact, in

the buffer zone. The description and fees are being updated, and the plans as approved were correct, so this will be an administrative change as per communications via email with Commissioners.

The DEP has issued final numbers and has also noted that the wetlands delineation is 15 years old, having been completed in 2004. It should be no more than three years old, so the Application should have it re-done. The Applicant had stated that he was "grandfathered" when asked the last time; the grandfathering would have applied only with regards to the stormwater report, but not with wetlands delineation.

It is unknown if the Conservation Commission can take action; a new delineation should be provided, unless the wetland has already been filled and that is what would be shown on a new delineation. A new filing may be in order for the lots in question. The old delineation would have been good until 2007 but many NOI's have been approved since then. A new delineation will be requested.

Clark Ave. is another project that may have outdated delineations that should be revisited.

These issues came to light after the NOIs were approved, but the two other issues were administrative. File numbers have been issued but the DEP has not approved this. The Applicant must return before the Commission and possibly file for an amendment to the Order of Conditions.

D. 16, 18, 20R Franklin Street (DEP #64-660) – update on appeal

The DEP is in the process of reviewing the appeal, and did a site visit in March as a result of the appeal. They will either issue a superseding Order of Conditions or determine that the one this Commission has issued, stands. Lot ownership was discussed at the Conservation Commission, but clarification was required by the Zoning Board as this particular issue was not jurisdictional. The DEP provided no feedback on that issue; neighbors expressed it, and Bob Griffin noted that the project would not move forward until that issue is resolved.

E. Discussion and vote on board positions (Chair and Vice Chair)

Tabled until the next meeting as Chair St. Louis is not present.

F. Discussion of possible revisions to local wetlands ordinance

Darya Mattes notes that one funding possibility is using Commission funds, but there is also a Municipal Vulnerability Preparedness Action Grant open now. It funds projects that have been ID'd by the City in its Climate Change Adaptation Plan of 2014 and includes a category this would fall under. The Grant suggests that it is possible to fund changes to the local bylaws. Darya Mattes looked at other places doing this to get a sense of their budget.

She is putting together at least one proposal for that grant, will do another for this as well. The Commission approves. Vice Chair Hoskins notes the City is short on ordinances, and that this lack excludes the Commission's ability to make projects not happen, and the Commission has no teeth due to local ordinances that do not recognize known risks. A consultant and a timeline could be helpful.

Which grants fund what regarding resilience is described. There an upcoming workshop that Commissioners may find helpful.

Megan Woodcock of 19 Franklin St. asks about the appeal. She reviews the letter. One issue under appeal was access to the water but this is a Chapter 91 issue that will be worked out. She does not feel that what they provided is public access, but this is at the state level; the City Ordinance does not supersede that. Tom Campbell comments that the path will connect to Furlong Park; there is also a sidewalk down to the water from Franklin St.

Vice Chair Hoskins notes that many issues raised in the letter are not jurisdictional; actual reasons for the appeal that are germane start on p. 4. The DEP may very well issue a superseding Order of Conditions.

Mr. James Horton of 17 Franklin St. feels that the piece of contested land will be granted to the developer and that the City will not contest it as they are “getting what they want,” which is for the junkyard to go away. This is discussed.

Solicitation of a developer response is discussed. There was a site visit, and the developer was there to respond and share information with the DEP. Many points were already discussed by the Conservation Commission.

G. Update on filling the vacancy on the Commission

One applicant is still deciding whether or not she can join the Commission, so applications are still being sought.

V. APPROVAL OF MINUTES: 3/14/19

A motion to approve the March 2019 minutes, with minor corrections, is made by Tom Campbell, seconded by Dan Ricciarelli and passes 4-0.

ADJOURNMENT

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

The meeting ends at 8:00 PM.

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

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission