

# CITY OF SALEM CONSERVATION COMMISSION

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*The Salem Conservation Commission held its regularly scheduled meeting on **Tuesday, May 18, 2021** at **6:30 PM** via **remote participation**.*

## **Meeting Minutes** Salem Conservation Commission Minutes of Meeting

Date and Time: Tuesday, May 18, 2021, 6:30 p.m.  
Meeting Location: Zoom or call-in  
Members Present: Chair Gregory St. Louis, Bart Hoskins, Scott Sheehan, Tyler Glode, Dan Ricciarelli  
Members Absent: Tom Campbell, Malissa Vieira  
Others Present: Kate Kennedy, Conservation Agent  
Recorder: Stacy Kilb

Chair Greg St. Louis calls the meeting to order at 6:0PM.

### **I. ROLL CALL** **II. REGULAR AGENDA**

- A. Pan Am Railways, Inc.** – Public Hearing - Request for Determination of Applicability for Keith Morris, representing Pan Am Railways, Inc. The purpose of the hearing is to discuss the verification of sensitive areas along Pan Am Railways, Inc. rights of way (ROW) as per MDAR, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

This item is heard after Item D, which was discussed first due to time constraints. Mr. Morris is not available but noted that markings have not changed in the last five years. Typically, these activities are exempt, but the Commission is notified.

Chair St. Louis asks if an Order of Conditions was extended or if there was an RDA. This is discussed. Kate Kennedy does not believe it was an extension. Currently, an extension of the “no spray zones” is being requested. The Commission has no comments. The limits of herbicide were low and there were no issues in the past.

Scott Sheehan notes that Pan Am Railways was along the North River last weekend cleaning up old railroad ties, etc.

This is a linear project, notes the Chair. There are no public comments.

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

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

If there is an open Order of Conditions, it should be closed out.

*A motion to issue a negative 2 and a negative 6 determination is made by Dan Ricciarelli, seconded by Tyler Glode, and passes 5-0.*

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

- B. 163-173 Derby Street** -National Park Service– DEP #64 -717 – Public Hearing – Notice of Intent – for William Fuchs, National Park Service, 160 Derby Street, Salem. The purpose of the hearing is to discuss the proposed repair and replacement of broken water lines, valves and accessory features in two locations on Central Wharf, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Bill Fuchs presents the project.

- Locus map. In 50’ buffer to Salem Harbor and LSCSF.
- Work to repair/replace broken water lines; trenching will occur to a depth of 4’ and width of 3’. Work locations are shown.
- Pipe will be replaced in kind. All excavated materials will be returned to trenches.
- Work will take 1-2 days in what is largely a lawn area, but directly adjacent to the harbor.
- 190 square feet will be disturbed.
- Scott Sheehan asks if this is drinking water; it is available as such for boats that tie up there. Scott Sheehan’s employer has a legal opinion that drinking water is for the public good and an exempt project not subject to local bylaws. A discussion unrelated to this, by the Conservation Commission, is suggested. Repair and replacement of a fire hydrant is also planned and would not be exempt.
- Water mains in roads are exempt, notes the Chair, but it is not clear if this is a road.
- Scott Sheehan notes statutory jurisdiction/federal property.
- The Commission views this as a “good faith application” rather than a mandated one. Mr. Fuchs notes his agency goes through local compliance even when it is not strictly required.

- The Chair suggests using zinc-lined pipe on the water line, due to brackish water.
- Engineering Dept. should also be asked if they need a backflow. The intention is to install backflow valves.

There are no public comments.

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

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

*A motion to issue an Order of Conditions, subject to standard conditions, is made by Tyler Glode, seconded by Bart Hoskins, and passes 5-0.*

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

- C. 203 Canal Street** —Public Hearing - Request for Determination of Applicability for John Bobrek, of Z&M Realty Trust. The purpose of the hearing is to discuss the proposed drive-thru and parking lot amendments within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Alex Cedrone of Bobrek Engineering represents Bagel World.

- Site is in Flood Zone AE subject to coastal storm flowage through the City’s infrastructure. Groundwater is high so drainage is an issue.
- Existing drive through logistics are described; queue is short, and vehicles back up onto the street.
- The existing Canal St. curb cut will be closed and the exit on Forest Ave. will be improved, and another entrance added for a drive through line and a parking line.
- Not much grading is proposed but what little there will be is described.
- Landscaping and drainage are described. Drainage patterns will not be changed, but runoff collection will be improved. An infiltration trench around the perimeter of the site will be installed.
- Snow storage is described.
- A 1’ wall is proposed along Canal St.
- Groundwater elevations limit owner’s ability to install infiltration chambers/catch basins.

- Electric conduit trench will be needed.
- Chair St. Louis asks if water can continue down the existing gutter line around the corner, on Canal St. This is unknown; drainage along Canal St. has not been explored but Mr. Cedrone notes the Canal St. sidewalk/curb cut/apron mounds and prevents water from flowing onto the site from Canal St.
- Alternate project designs are discussed.
- Water flowage is further discussed. The Applicant has attempted to contain most of the water onsite.
- Tyler Glode asks why one area is not landscaped; this is so the car in a particular spot can back up out of the space. Configuration of the loading area is also discussed.

There are no public comments.

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

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

A motion to issue a Negative 2 and a Negative 6 Determination is made by Bart Hoskins, seconded by Tyler Glode, and passes 5-0.

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

- D. 21 Hemenway Road** – DEP #64-723 - Public Hearing – Notice of Intent – for Scott Patrowicz for property located at 21 Hemenway Road, Salem, MA. The purpose of the hearing is to discuss the proposed repairs of existing seawalls, site work, and landscaping, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

This item is heard first.

Mr. Scott Patrowicz represents the project.

- Sea wall has multiple sections.
- Locus/Locus map.
- Site overviews.

- Photo of house/existing wall. Some blocks are missing, part of wall is bulging and must be repaired. Abutter has a masonry stone wall. Ledge and riprap are on this site, comprising slumping/failing revetment. Wall will be freestanding, not touching abutter's wall.
- Area of proposed granite steps.
- Existing conditions, work outlined. Coastal resource areas described. Stairs are not on this drawing but are on structural engineer's report; their proposed location is highlighted.
- Repair of revetment has been suggested, but they don't want it to slump again. Only way to prevent it is to make a level area to stack it on. Otherwise, continuity in extension of line of granite wall w/poured concrete is desired.
- DEP has issued a letter discussing concerns mentioned by the Applicant, notes the Chair.
- Amount of fill included? This is discussed and estimated at 10 cubic yards of additional fill. Will have to remove material behind the granite block wall, as it is not suitable for a good backfill.
- Chair St. Louis asks about elevations of the granite block wall and this is discussed. 11.6 is the four-block height; it is meant to be consistent.
- What is reasoning behind coastal bank delineation? Wall area is sloping and slumping; it is very steep landward of the FEMA line in an A zone, not subject to wave action, but by definition, a 25% slope here (landward of the FEMA line) constitutes a coastal bank, this one at elevation 14. It is only based on slope, not "on reality."
  - Chair St. Louis would like to read the definition, as this means lawn is coastal bank. Figure 2 is shown.
  - The policy being used is described; it changed in 2014, pulling coastal banks inland.
  - If there is not a 25% slope landward of FEMA line, top of coastal bank then coincides with the FEMA line (Figure 3).
  - Chair St. Louis comments that this is counterintuitive.
  - Mr. Patrowicz recommends a site visit.
- Chair: DEP suggests a "soft edge" here. Segmented sea walls/missing sea wall between two sea walls, Chair is not inclined to continue to provide a soft solution b/c neighboring sea walls increase velocity in the area. He is not interested in that solution in this area.
  - Mr. Patrowicz notes, on the north side of property where it is soft for a chunk, clean up that area and add stone steps that people can use; continuation of the wall to that abutter is not proposed.
- The Commission desires a site visit; dates and times are discussed, and a site visit scheduled for Tuesday, 5/25 at 5PM.
- Chair suggests looking at planting options for coastal beach, to aid the salt marsh.

There are no comments from the public.

*A motion to continue this item to the June meeting is made by Dan Ricciarelli, seconded by Tyler Glode, and passes 5-0.*

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

### III. OLD/NEW BUSINESS

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

**A. 50 Fort Avenue -SESD – DEP #64-576 – Request for Certificate of Compliance – Applicant:  
David Michelsen**

Mr. Michelsen, director of SESD, describes the NOI for the combined heat/power facility and sound wall in 2014. The project is described. Construction is complete with no major deviations from the Plans.

There are no public comments.

*A motion to issue the Certificate of Compliance is made by Dan Ricciarelli, seconded by Bart Hoskins, and passes 5-0.*

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

**B. Tedesco Pond, Salem MA – DEP #64-364 - Request for Extension Permit of Order of Conditions – Applicant: Kara Sliwoski of SÖLitude Lake Management**

Ms. Silwoski, project manager, is looking to continue aquatic plant management and algae program for this Pond. Annually, the Pond is treated once around this time of the year for invasive plants and algae growth. Last summer’s drought contributed to algae issues, so a follow-up treatment was done. There is no plan to change the annual management program. The problems posed by these plants and algae are described. This is ongoing maintenance. The Commission has previously made a thorough presentation.

*A motion extend the Order of Conditions for three years is made by Scott Sheehan, seconded by Bart Hoskins, and passes 5-0.*

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Tom Campbell	Absent
Malissa Vieira	Absent

**C. Salem State O’Keefe Athletic Complex – Rick Jones of Jones Architecture, removal and replacement of artificial turf to athletic field**

Dan Ricciarelli recuses himself from this item and leaves the meeting. This may be considered maintenance but feedback on proposed work was desired.

Joanne Kuo, Salem State Project Manager  
Richard Jones, Jones Architecture

- Original field/turf installed in 2005, beyond end of its useful life. It must be replaced.
- Safety concern limited to turf itself; originally designed to handle 20" of rain/hour; in 20 years there has been one instance of standing water on the field, and that predates Canal St. upgrades. Parking lot no longer floods after reconstruction, except for one small area.
- Focus is on making turf a safe and competitive surface. Turf over pad w/gravel substrate incl water storage and internal drainage structures. Water moves vertically through system
- One trench drain is at north gate.
- Edge detail: flush concrete.
- Work proposed is to resurface playing field? Yes, ripping up carpet and replacing with new. Local jurisdiction floodplain/no fill proposed b/c field is flat.
- Turf materials are described, they pass CA Prop 65 for health and safety. Crumb rubber exists but new material will be bio-based. Material is warranted for 8 years but they are hoping for 15 years of use. Urgency is they got DCAM funding late in game, will lose it if they don't spend by June 30 as there is a 3 to 4-week construction period.
- Chair: not an NOI, if not adding fill to coastal or inland flood plain.
- He references Canal St. as a City project, but Canal St. was phase I, phase II will require collaboration w/Salem State.
- Joanne Kuo will relay this up the chain.
- Trench drain and some other areas will have straw wattle containment. Vacuumed crumb rubber will be stored in non -permeable bags in the parking lot. Everything will be recycled.
- Tyler Glode asks that they look into compostable socks in lieu of straw wattle. Should be invasive – free.
- Chair is interested in the name of the vendor who will recycle the fabric as he has a similar professional scenario. This information will be shared. Ms. Kuo believes the plastic is recycled into Trex decking.
- Chair suggests filing the RDA concurrently here and with the DEP. Explicitly state the floodplain will not be filled, and they are operating under maintenance. Note if previous Order of Conditions exists that states perpetual conditions, that will help.

#### **New Business:**

Scott Sheehan asks about the Planning (ZBA?) meeting regarding the proposed trucking area along the North River (to be rezoned). They have been doing trucking for a while and noticed they were not in jurisdiction. This is the property next to the new Halstead apartment building on Flint St.; that owner complained to the City about idling trucks on the riverbank. Some of the property in question belongs to the City, which gave the trucking company a 30-day notice to vacate; they are now seeking a use change variance. Commission jurisdiction is discussed because this is in the 200' riverfront area. Chair St. Louis notes that it likely must go before ENG as land use w/high pollutant load discharging to MS4. If they are not paving, ConCom has jurisdiction if they cause an issue, if not, we don't. For land use where they could create an oil spill, they may need to upgrade the stormwater system. Fleet use definition is discussed. Additional details are needed.

may need to upgrade stormwater system. Fleet use definition is discussed. Current use is illegal, is zoning action w/out construction ConCom? If changing use and not zoned for that use, they would go to ZBA or Planning Board for special permit/variance. May be a combination of City and private property. But still not our jurisdiction. Fuel storage is another take on the scenario. More details are

**Commented [SK1]:** I clerk for the Planning Board and this has not come up. It looks like it is set for the ZBA tomorrow?

needed.

Bart Hoskins:

Update on effort to update local buffer zone/coastal development ordinances?

Tom Devine is engaging a Scope of Services for the Conservation Commission to review (3 options).

Chair St. Louis has a follow-up meeting to discuss this. Any Ordinance must be jurisdictional, defensible and forward thinking. They are trying to incentivize people to build above the floodplain w/out getting into building code and associated lawsuits. The Ordinance could use the jurisdictional area of the 100' buffer to floodplain, requiring construction to be 1' above the floodplain elevation. That way if the map is revised in four years you are not suddenly thrown into flood insurance. Glode notes a 2 year freeboard on top of 50 year anticipated floodplain.

Commented [SK2]: I have no idea what that means, LOL!

#### IV. APPROVAL of MINUTES

- a. February 16, 2021 Minutes
- b. March 16, 2021 Minutes
- c. April 20, 2021 Minutes

A motion to approve all sets of minutes is made by Bart Hoskins, seconded by Tyler Glode, and passes 4-0 in a roll call vote.

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Absent
Tom Campbell	Absent
Malissa Vieira	Absent

#### V. ADJOURNMENT

A motion to adjourn is made by Tyler Glode, seconded by Scott Sheehan, and passes 4-0 in a roll call vote.

Chair Gregory St. Louis	Yes
Bart Hoskins	Yes
Scott Sheehan	Yes
Tyler Glode	Yes
Dan Ricciarelli	Absent
Tom Campbell	Absent
Malissa Vieira	Absent

The meeting ends at 8:01 PM.

Respectfully Submitted,  
Stacy Kilb  
Clerk, Salem Conservation Commission

