

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, June 14, 2018, 6:30 p.m.
Meeting Location: Large Conference Room, City Hall Annex, 98 Washington Street
Members Present: Chair Gregory St. Louis, Bart Hoskins, Tyler Glode, Tom Campbell, Gail Kubik (5)
Members Absent: Dan Ricciarelli, Scott Sheehan (2)
Others Present: Ashley Green, Conservation Agent
Recorder: Stacy Kilb

Chair Gregory St. Louis calls the meeting to order at 6:30PM. Some items are taken out of order as Bart Hoskins arrives late, at 6:43PM.

- 1. 441 Lafayette Street Dock and Float Repair (DEP #64-649)**—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.**

Mr. Mark Mazuzan, Applicant, presents. He outlines the history of the dock, built in 1988. There is no Chapter 91 license for this. A survey has been provided, as are drawings of the raft, which will have 18” of elevation off the flat with 12” diameter plates. Photos of the area at low tide are also presented. The previous owner stored the float by the water, where it was damaged during the winter storms, so while the gangway remains, the float is gone.

Chair St. Louis comments that the 18” legs with 12” pads are conditions that were recently requested by the Division of Marine Fisheries (DMF) on a previous, similar project. He questions the possibility of removing and storing the existing 40’ gangway seasonally. Mr. Mazuzan states that Mike Wolfe of Willa Marine will remove and store the new gangway seasonally.

A mock up of steel work was also done. Work proposed on the pier is described; wood and decking will remain, be raised, and steel replaced. It will be built modularly in a shop then assembled onsite. One piece is of interest and is described as 4 pins 8” deep, with a 1” diameter and epoxy. Dimensions are shown on one elevation.

Diagonals from front to back are not shown, and Mr. Mazuzan elaborates. Once steel is removed, pins should be situated where they originally were but there may be slight modification. Chair St. Louis comments that longer pins may be needed.

Agent Green had provided initial comments received from DMF regarding footings, and she resubmitted additional information, but did not receive additional comments from DMF. Mr. Mazuzan has not spoken to the Chapter 91 office, but wanted to receive an Order of Conditions first, then pursue a simplified license; he describes his intended process.

Bart Hoskins arrives at 6:43Pm.

Mr. Mazuzan thinks that the 6x6 legs on the float are proposed as wood; the description is simply “legs.” A removable system may be installed, but details on that and materials are not certain so must be provided later. This and details on the conceptual illustration are discussed. Moorings and dimensions are discussed. Mike Willa is building the raft and will set the moor. What that will be is unclear. A helical anchor is a possibility.

Storage of the gangway and the Chapter 91 license are the only outstanding issues.

Chair St. Louis opens to the public.

Joyce Kenney asks if the wood to be used will be marine grade; the decking will be Trex and the superstructure will be an appropriate material.

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

A motion to issue an Order of Conditions is made by Glode, seconded by Kubik, and passes 5-0.

Conditions:

Gangway to be stored in an upland area

Applicant to obtain a chapter 91 license

The Applicant is reminded to record the Order at the Registry of Deeds; this can be done after the appeal period, or he could wait until the Chapter 91 process is completed, and file both at once.

2. **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 July 12, 2018 meeting.

A motion to continue to the July 12, 2018 meeting, is made by Hoskins, seconded by Campbell, and passes 5-0

3. **Greenlawn Cemetery Drainage Improvements—Public Hearing—Request for Determination of Applicability for the City of Salem, 98 Washington St, Fl 2, Salem MA. The purpose of this hearing is to discuss proposed replacement of catch basin grates, repairs to Liberty Hill Avenue drain outfall, repairs to Sargent Street drain outfall, and extending the outlet pipe across Azalea Road at Greenlawn Cemetery at 57 Orne Street within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Presenting for the Applicant is Rebecca Dupont-Coutu of New England Civil Engineering representing David Knowlton from the City of Salem Engineering Department.

She describes the drainage issues with road runoff and a newly discovered outfall that discharges into Sargent Pond. Runoff locations and proposed remedies are described.

The existing outfall off Liberty will be stabilized, and catch basins installed on the other side. A connection, previously unknown, that ties into the golf course will be temporarily capped to ensure no damage to the golf course. The pond has serious algae issues, so to have a connection from the golf course only exacerbates the issue. A native planting project later will hopefully deal with nitrogen issues caused by congregations of ducks along the pond edge. An illicit sewer connection tied to the drain line also exists and will be addressed.

The small pond and the large pond are connected. There are many nutrient issues and this will help alleviate erosion and sediment in addition to the nutrient problem. Hoskins asks about the logistics of the flow from the golf course, and Ms. Dupont-Coutu elaborates. Hoskins asks about water level issues in the smaller pond and this is discussed.

There are no questions from the public.

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

A motion to issue Negative 2 and Negative 6 Determinations is made by Kubik, seconded by Hoskins, and passes unanimously 5-0.

4. 81 Highland Avenue Fuel Cell Utility Interconnections—Public Hearing—Request for Determination of Applicability for Bloom Energy, 1299 Orleans Dr, Sunnyvale CA. The purpose of this hearing is to discuss proposed installation of utility interconnections from the new customer-side distributed generation resource to the existing Central Utilities Plant at 81 Highland Avenue within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Justin Adams of Bloom Energy presents. Chair St. Louis comments he needs to recuse himself. A fuel cell will be connected to the central utilities plant, which will accommodate the hospital's entire base load. Glode explains how such units function and this is discussed.

Utility connections are in the buffer zone, with some in paved areas and some in landscaped areas. Logistics of the site and work are described. There will be little disturbance. Water, gas and electric will be connected, with no storage onsite. The unit itself uses water to start up, but recycles water with no discharge; only CO₂ is discharged through a fan system. 30 linear feet of the utility connections are in the buffer and there will be erosion control measures installed throughout. They will be left onsite until the site is revegetated. The height of the retaining wall remains to be determined, but probably will be about 4'. The grading shown is existing. Glode discusses the grading and work process. Some vegetation within the buffer may need to be cleared, but they will not remove any mature trees. The exact amount is not yet known and the area is discussed. If trees need to be removed, they must be replaced in kind. Glode is uncertain of what the standard is; nothing has been passed by the LORAX committee. A discussion of trees ensues. The wording of the condition will be discussed; however the Applicant feels that no trees that large will need to be removed. The Commission would like to be cautious and ensure that an equal caliper quantity of trees be replaced that were removed.

A motion to close the public hearing is made by Kubik, seconded by Glode and passes 4 -0 with St. Louis recused.

A motion to issue a Negative 3 and Negative 6 determination is made by Kubik, seconded by Campbell, and passes 4-0 with St. Louis recused.

Conditions: Notify the agent for review and approval if any tree greater than 4" caliper at breast height must be removed

5. 86 Bay View Avenue Seawall Repair (DEP #64-652)—Public Hearing—Notice of Intent for Robert G. King, 86 Bay View Avenue, Salem, MA. The purpose of this hearing is to discuss the proposed repair of a 9-foot section of an existing seawall at 86 Bay View Avenue within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Presenting is the Applicant himself, Robert King. He notes that all houses in the area have a section of seawall, each in different states of repair or disrepair. One section of his was lost during the Nor'easters. Estimates have been obtained; the contractor opined that just the section in question could be repaired and subsequent sections repaired if damaged in the future. Mr. King asked the neighbors to put in a new wall overall, but none agreed. This is in Juniper Cove; the location is described.

Most of the rock is on the beach so the Applicant was not planning to bring in any additional. Ledge is underneath and goes into the water. There is no way to get equipment behind the house so all work will be done by hand. At high tide, the water comes halfway up the wall. There is nothing at the base at low tide.

No schedule of work has yet been discussed, and Kubik asks how they will work within the tide cycle. The contractor's recommendations for construction methods are included in the NOI; he is proposing rebar and concrete, and Kubik wonders how it will cure if it gets wet. Mr. King notes that the height of each tide varies. Anchor pins and usage of rocks are discussed.

The Chair comments that the retaining wall behind it looks dry set, so anchoring it is possible but may affect things. The contractor had mentioned building a concrete column behind the wall to anchor it. Anchoring is further discussed. Glode comments on the language being somewhat vague, e.g. "rebar will be used where possible." The Applicant notes that the proposal is to repair the section of the breach to match the remaining sections of the wall, but also to make it stronger if possible.

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 Kubik, and passes 5-0.

The Applicant asks if, as in Marblehead, wording about having the ability to re-point the wall in perpetuity can be added. The Chair feels that sealing cracks is acceptable, but changing structural elements is not. Mr. King can email the language to Agent Green, who can add it to the Order. Pointing would be restricted to nonstructural repair, and the Condition goes with the deed to the house.

A motion to issue an Order of Conditions, with Standard and the below Special condition, is made by Hoskins, seconded by Campbell, and passes 5-0.

Applicant is authorized to repair the damaged section of wall, with the ability to point cracks as they develop, indefinitely. Language to be determined by the Agent and added to the Order of Condition.

The Chair comments that repair of seawalls with specific limitations was exempt from permitting during the month of March; six City seawalls and one private seawall were repaired during the exemption. One private wall repair was approved through the DEP.

Old/New Business Cont.

- **Shetland Park, 47 Congress Street, Enforcement Order—Dumping of snow into the South River.**

Mr. Bill Tinti of Tinti, Grover & Fry, presents. Also in attendance is the Assistant to the President of Shetland Park, Erick Hahn. Shetland Park has provided the Commission with a snow management plan, which will be followed moving forward. The precipitating event was a complaint filed on Jan. 4, 2018 during a storm that snow had been dumped by Shetland into the ocean. They have examined Shetland's snow management history; it is a large site and Shetland Properties has not dumped snow into the ocean for approximately 15 years. They have managed snow on the property itself; that is now incorporated in the Snow Management Plan that is before the Commission. Mr. Tinti reviews this. Dumping of snow in the ocean will be prevented.

Mr. Erick Hahn:

- Describes the layout of the site.
- 24 hours ahead of storm, will call contractors regarding shoveling only
- A couple hours out, will salt pedestrian access areas
- Paul Marziati will survey Park hourly
- Typical Shetland Park snow movement is described in detail; this is now formalized in the paperwork

Chair St. Louis appreciates that snow management is difficult; placing silt fence or a similar barrier down gradient of snow storage may be impractical. Placement of snow is discussed, particularly on the berm. The top of the berm is not paved, but the stone is somewhat compacted. The Chair does not see the value in putting snow fence around the small house. Snow pushed from the top of the parking structure will see restricted access below. The specific state of the berm is not known; the Chair comments that it could be classified as coastal beach/bank/dune, so should not have snow placed on it. Mr. Hahn asks if snow cannot be placed anywhere along the length of the berm. Glode comments that it looks like snow was accidentally pushed too far in this case. The process of moving and packing snow down is described. A front-end loader is used.

A 75%/25% sand/salt content is used unless it is really cold. Hoskins asks if the loaders can tamp down differently, spreading out the snow over a larger surface area. The petitioner comments that a wall may be added with water rising. There is no Versa Lok in one area; the Chair mentions the possibility of using jersey barriers to prevent a loader from going too far. Kubik asks if snow could be stored somewhere other than along the seawall; Mr. Hahn responds there are 26 acres of snow and the only area is in front of the former probate; once that area is rented, it will no longer be available for snow storage. The only alternative to the seawall would be to obtain a melter or ship the snow offsite.

Chair St. Louis again opines that jersey barriers that accept fence posts would provide an indicator of the boundary for snow storage. He feels that fabric would be detrimental, encouraging snow to be pushed against it, and becoming tattered in the wind. The location of barrier placement is discussed. Chair St. Louis mentions a section of pavement; the extension of the existing wall to connect to the building is discussed.

The Applicant asks if it is acceptable to extend/complete the wall on the low side of the berm to address this issue with snow. Logistics in relation to snow storage are discussed.

Mr. Hahn notes that this is a critical facility for the City as 5,000 people work there; keeping it functional is important. The Chair notes that if this was a new facility, it would be required to truck the snow offsite. An Enforcement Order was ratified but not recorded. The Webcam shot that accompanied the complaint is discussed. The Chair comments that if Shelland wants to extend the wall as part of the solution to address this Enforcement Order, the wall should be designed and permitted by October, but will probably not be built this year. The petitioner states that Mike Welch has done some engineering and they do have a quote and are actually planning to build it over the summer.

Chair St. Louis asks about drainage; it drains inland off the berm. The Chair would seek a hard barrier with an indicator of the vertical limit, and if a wall is built, then that can be discussed; if not, the area in which snow is being pushed needs to be delineated. Jersey barriers are very cost effective, but an actual wall would be more aesthetically pleasing. Jersey barriers could be used temporarily. The Chair suggests not storing snow on top of the berm without knowing what it is, as it may or may not be a resource.

The Chair opens to the public and Bob Griffin, 495 Cabot St, Beverly states that “they are doing a nice job.”

The logistics of rescinding an Enforcement Order are discussed; if a formal vote was taken, it could be subject to conditions, which can be rescinded. No fine has been issued. If this was in the winter, the Enforcement

Order could have been used to authorize placement of sea block, but instead the Commission asked the Petitioner to come in with a snow management plan, etc. That now becomes a binding document.

A motion to rescind the Enforcement Order filed Jan. 5, 2018, with the conditions below, is made by Kubik, seconded by Hoskins, and passes 5-0.

Conditions:

- Rescission is subject to compliance with the Shetland Park Snow maintenance management
 - No snow shall be discharged into wetland resource areas without proper authorization
 - Any snow storage in the northeasterly corner shall be contained within a hard barrier, i.e. sea block, permanent wall, jersey barrier, etc. with suggested visual indications up to 10' +/- for plow operators; Alternately, the Applicant can refrain from putting snow in that area.
- **2 Atlantic Street, DEP #64-627, Request for Certificate of Compliance.**

This item is heard first. Here for the Applicant is Darius Gregory. As-built photos from the inspection and a letter from the Engineer have been submitted. There are no perpetual conditions.

A motion to grant the Certificate of Compliance is made by Campbell, seconded by Kubik, and passes 4-0 with Hoskins not yet present.

- **60 & 64 Grove St and 3 Harmony Grove Rd, DEP #64-447, Request for Certificate of Compliance.**

Bob Griffin requests the Certificate on this 2007 Order, describing work done on the sight to remove a tank and dig test pits. A second NOI was submitted for additional work on the site, but this request is to close out the first NOI and OOC. The work under this Order was completed many years ago, but a Certificate of Compliance was never requested.

A motion to grant the Certificate of Compliance is made by Campbell, seconded by Glode, and passes 5-0.

Kubik asks what the procedure is if an Order of Conditions has expired but the Applicant comes before the Commission. There are different ways of dealing with this; usually, work has not occurred since the expiration date, and the Applicant simply failed to come in for a Certificate. This happens with most homeowners, so if the work is done and acceptable, it gets closed out. If an Order has expired but work was not done or done incorrectly, the process would be to re-file and re-notify. Otherwise, an Enforcement Order could be issued. In this case, work being done now is under a different Order.

- **3 Harmony Grove Rd & 64 Grove St, DEP #64-604, Request to Extend Order of Conditions.**

Mr. Griffin notes the two Orders of Conditions on the site and describes the layout of the development. One of the Orders is a superseding Order of Conditions. One remediation area was left off the original Order of Conditions, possibly because the contamination was not known. The DEP issued an extension for the superseding Order, and the Applicant is now requesting from the Commission an extension on the contaminated area. Remediation has been ongoing and is described. There are conditions for working along the river which are also described. This Order expires in October and the sale of the property is described; the development will continue but extensions are needed both for the DEP and Commission Orders of Conditions. A three-year extension is being sought.

It is noted by Agent Green that she recently received an email from DMF stating that in-water work for this

site is restricted from March 1 to June 1, but the time of year restriction was not referenced in the Commission's Order of Conditions. A condition in the City's standard conditions should be added to restrict work during this time period at relevant sites.

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

- **Discussion of stockpiling of soil at 16, 18, and 20R Franklin Street (Ferris Junk Yard).**

Bob Griffin presents. Excess soil from the 9 South Mason St. site is being stored at the Franklin St. site. The 9 South Mason St. site has a couple of 21E issues there that have been remediated and has a clean bill of health; then in 2015, coal ash was discovered at one portion of the site, which had high concentrations of metals. SP Engineering removed that material to a landfill, and subsequently took samples that confirmed the site was clean. The dirt that was removed was replaced. There are no remaining restrictions on use of dirt in the site.

His client brought the soil to the Ferris Junk Yard on Franklin St. His client, Marc Tranos, anticipates purchasing the Ferris Junk Yard site and is currently in the permitting process for a development there. The soil will be used either as part of that new development or by Mr. Ferris, the current owner of the site. Mr. Ferris has need of it for work required under a settlement with Conservation Law Foundation (CLF).

Mr. Griffin considered filing a Notice of Intent (NOI) for this work, but thought a Request for Determination of Applicability (RDA) might be more appropriate, given the size of the property and the small amount of dirt. The stockpile is occupying flood storage but this is Land Subject to Coastal Storm Flowage (LSCSF) so there is no impact on neighboring properties. Mr. Griffin notes that he will be filing an NOI for the redevelopment of the site in the near future. Thus he feels it would be appropriate for Mr. Ferris to file an RDA, then later deal with the redevelopment. Kubik asks about site inundation during the January and March storms. The entire site was inundated. She is concerned about dirt moving but Mr. Griffin comments that currents are needed to move dirt. Chair St. Louis comments that any dirt stockpiled should be vegetated. Mr. Griffin is not opposed to vegetation or control measures but still feels an RDA is more appropriate than an NOI. A silt sock is there, and there are no drainage inlets on the site. This is upland of a depressed area. The volume of the depression is much greater than that of the stockpile. A redevelopment plan is shown.

Some contamination will be removed from various areas of this site during redevelopment, and the layout is described. The area will be raised above the flood plain elevation and is not in a velocity zone. Elevations are further described with regards to pedestrian access.

21E contamination issues and the sampling process at the 9 South Mason St. site are discussed. Satisfactory conditions were found, so there is no Activity and Use Limitation on the site. However, the stockpiled soil itself has not been tested.

Soil will ideally be used to grade the Franklin Street site once Mr. Tranos (the developer) has the project permitted. Otherwise, Mr. Ferris needs the soil to build berms, etc. as he is required to do as part of the settlement with CLF. Timing is discussed and Mr. Griffin notes that his Client hopes to get the project permitted within a year. Mr. Ferris has longer to build the berm, but would prefer that the Tranos project gets approved. The upcoming project does affect what Mr. Ferris will do. As per the CLF lawsuit, he must provide a vegetated buffer along edge, while Mr. Tranos is planning an entire development. Treatment of the shoreline must also be discussed, as there is lots of detritus along it. Mr. Griffin notes that most of the site is filled tidelands, and it served as a landfill for a long time. The LSP has identified several strips of land where dirt is to be removed, and these are described.

The advantages and disadvantages of filing an NOI vs. an RDA are discussed. Mr. Griffin feels an RDA is more appropriate as an NOI for the site redevelopment is forthcoming. The stockpile cannot remain without an RDA as it is currently a violation. Either way, the pile should be seeded.

Mr. Griffin notes a third option, that of issuing an Enforcement Order rather than an RDA. The site is not zoned to operate as a construction yard; it is a permitted, active junkyard. There is a berm along the outside. Contours and the basin are described. Small pieces of the site are paved; the paving was associated with operations, it's not just an entirely previously paved site in disrepair. The filing would be only for this soil; the Applicant wants to bring in more.

Fifteen truckloads are currently there, and the Applicant wants to bring in 15 more. Chair St. Louis comments that an Enforcement Order would stop any action. The Commission feels an RDA is sufficient with conditions, but Ashley Green notes that there is no way of addition conditions since the stockpile is in the resource area, not the buffer zone.

The fact that this is in a resource area complicates matters. Mr. Griffin's client has no problem covering or seeding the pile, but requiring him to file an NOI for it seems like overkill. Chair St. Louis and the other Commissioners feel that Enforcement action would be more appropriate in a stabilization capacity, as there is no discharge to the ocean or offsite. The timing and whether additional material can be brought onsite under an Enforcement Order are discussed. Mr. Griffin notes that the material coming off of the 9 South Mason St. site has no restrictions; it is not merely below reportable thresholds, but can be used for any purpose.

It is uncertain if there is a National Pollutant Discharge Elimination System (NPDES) permit on the site. The CLF lawsuit and the actions of that organization against junkyard operators are described.

The heart of the issue is the Commission's desire to see the stockpile removed. Mr. Griffin notes that the dirt will be used in any case, so there is no point in hauling it away. An Enforcement Order requiring a stabilization plan is discussed, as is the need to file for a NPDES permit if there is not one in place currently. How to accommodate additional soils is also discussed.

The stabilization plan should include language stating that no contaminated materials be allowed to enter the site without a permit. Testing should be part of the Enforcement Order. A Notice of Intent for the development or a vegetated buffer should be in place before additional materials are brought onsite.

A motion to issue an Enforcement Order for the stockpile of material on the subject site, 16, 18 and 20R Franklin St., is made by Hoskins, seconded by Glode, and passes with all in favor.

Requirements of the Enforcement Order:

Materials shall be immediately stabilized, and Applicant will submit a Stabilization Plan for the soil

The Stabilization Plan shall be submitted by the next Conservation Commission meeting

Existing NPDES and/or multi sector general permit shall be provided to the Commission for its information

- **Discussion of stocking of Tedesco Pond.**

The Pond is owned by the Condo Association there. They have inquired as to the process they must follow to stock the pond and what permits were needed. Agent Green has looked into this, but has been unable to find information on this from a Conservation Commission perspective. She reached out to Boston Conservation Commission as the City stocks Jamaica Plain, but they have no permit from the Conservation Commission for this. She checked with Fish & Wildlife, who outlined the permits needed, and that information was provided to a Condo Association representative. Agent Green comments that she can reach out to the DEP, but if Fish and Wildlife issues a permit, the Commission might not need to as that in itself is a very stringent process. The

Commission agrees that Fish and Wildlife permitting is sufficient and a separate permit from the Conservation Commission is not necessary.

Agent Green discusses the digital flood rate maps in effect and outlines the contents of a letter received on updates to these maps by USGS. The USGS invites Salem to review the work maps at one of three meetings. Agent Green will be attending the Hamilton or Wenham session, and Greg St. Louis is attending Middlesex County/Medford session. Someone from Engineering will also be attending on behalf of the City.

- **Meeting minutes—March 8, 2018, April 12, 2018, and May 10, 2018.**

Tabled until the next meeting.

A motion to adjourns made by Hoskins, seconded by Glode, and passes 5-0 with all in favor.

The meeting ends at 9:05PM.

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission

Approved by the Conservation Commission on August 9, 2018.

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