

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, OCTOBER 23, 2018 – 7:00 P.M.
SALEM TOWN HALL – CONFERENCE ROOM 1**

PRESENT

Joseph Duncan, Chair
Vernon Smith, Vice Chair
John Gadbois, Secretary
Margaret Caron
Ruth Savalle
Diba Khan-Bureau, Alternate (*seated*)
Ray Gionet, Alternate (*seated*)

ABSENT

David Miller
Eric Wenzel
Terri Salas, Alternate

ALSO PRESENT

Town Planner Justin LaFountain

1. CALL TO ORDER

Chairman Duncan called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

SEATING OF ALTERNATE(S):

Alternate Members Gionet and Khan-Bureau were seated for Commissioners Miller and Wenzel.

ALTERATIONS TO THE AGENDA:

The following item was added to the Agenda:

6. FOREST MANAGEMENT PLAN REPORT, Commissioner Khan-Bureau

Succeeding items will be numbered accordingly

3. PUBLIC COMMENT: *none*

4. PUBLIC HEARING: *none*

5. APPROVAL OF MINUTES OF PREVIOUS MEETING(S):

a. Regular Meeting Minutes: September 25, 2018

M/S/C: Smith/Caron, to approve the Regular Meeting Minutes of September 25, 2018. Discussion: None. Voice vote, 7-0, all in favor.

6. FOREST MANAGEMENT PLAN REPORT, Commissioner Khan-Bureau

Commissioner Khan-Bureau reported that Tom Worthley, Associate Extension Professor at the University of Connecticut Cooperative Extension Service and the University of Connecticut Department of Natural Resources and the Environment, four of her students, and herself walked

along the Salem Multipurpose Path located behind the School with Multipurpose Path Committee Chairperson Sue Spang. The group discussed the existing plant and tree species located along the trail. While there are many healthy trees located along the trail, there are also a number of dead/dying trees due to issues of drought, bugs, blight and fungus that have occurred over the last two years. The group discussed the potential liability issues that could arise should any of the larger, dead trees along the path fall and ways in which they could remedy the situation, from cutting the limbs, rather than the entire tree, or marking the dead trees. Cutting the trees would promote the growth of the many young, sprouting oak trees. A full resource inventory will be conducted, possibly beginning with the Harris Brook Trail. She commended Multipurpose Path Committee Chairperson Spang and the Committee for creating a beautiful trail that is a great asset to the Town.

In response to Commissioner Smith regarding the fungi, Commissioner Khan-Bureau stated that the fungi were created by the stress experienced by the trees due to the drought, gypsy moths, and other natural occurrences.

6. OLD BUSINESS

a. Regulation Re-write Discussion:

1) Section 25-A – Riparian Corridor Overlay Zone (RCOZ)

Town Planner LaFountain reviewed the Regulation, stating that while the Regulation, which was drafted in 2007, includes some good points, it also poses areas of concern, some of which may or may not be relevant or legal within the Zoning Regulations. Some are also recommendations rather than strict requirements. In addition, upon investigating the GIS maps of the area in question and the affected properties, he discovered that some lots are disproportionately affected by the RCOZ, i.e., smaller subdivision lots (up to two acres) with up to 70% to 80% of its property located within the Zone.

Commissioner Caron reported that, following their last meeting, she visited the Eightmile River Wild & Scenic Watershed website and reviewed their Watershed Management Plan. As recommended, the Town amended their regulations to help guide and/or enforce the Plan. She noted that some of the items were taken directly from the Plan, resulting in a very specific and prescriptive regulation. She also located the regulations for the Town of East Haddam, which includes a brief, straightforward set of guidelines. She felt that the Commission could adjust their regulations and, using East Haddam's regulations as a guide, make them more straightforward, clear, and understandable.

Commissioner Khan-Bureau proposed engaging the aid of the Eightmile River Wild & Scenic Coordinating Committee Program Director Patricia Young and reminded the Commission that the associated towns voted in favor of the Management Plan, which took many years to draft. She also suggested the possibility of speaking with the other

towns for their thoughts, seeking guidance from the Town Attorney, and including an addendum, rather than rewriting the regulation.

Chairman Duncan felt that regulations should be understandable and straightforward, not understood in different ways or left to various interpretations, and enforceable. The difficulty posed by reviewing the existing regulations of other towns is that one's critical thinking automatically stops. The Commission engaged in an extensive discussion regarding one of the sections cited by Chairman Duncan as an unenforceable example (Section 25A.5.1(a)(5)). Revising the regulations by first eliminating the unenforceable and recommended items and adding a minimum lot size (2 or 3 acres) was suggested.

Commissioner Savalle stated that their regulation should back-up and reinforce the Inland Wetlands and Watercourses Regulations in this regard and suggested the possibility of reviewing and discussing their regulations as they strive to clarify their own. She also informed the Commissioners that the Eightmile River Wild & Scenic Coordinating Committee is in the process of encouraging the town of East Haddam to revise their regulations, similar to Salem's, such that they are more protective.

Commissioners Gionet, Caron, and Smith reiterated that the regulations should be clear, concise, easier to read, understandable, and enforceable and, possibly, include explanations and/or benefits, making it more palatable and more likely to be followed, while still maintaining its intent. Questions regarding whether the regulation, itself, or parts of the regulation belongs under the Commission's purview and their regulations in relation to the existing State Statutes were also discussed.

Commissioner Khan-Bureau reported that she plans to submit a proposal to the Eightmile River Wild & Scenic Coordinating Committee for grant funds to create an informative/educational brochure for the public regarding the Inland Wetlands Commission and could also include the Planning & Zoning Commission, as well.

Town Planner LaFountain pointed out a few examples, which, he felt, might pose an issue, for their consideration:

Section 25A.4.2 – Because the regulations are permissive and the regulations for the other zones do not delineate the same as-of-right activities, the question arises as to whether the activities listed in this section are not allowable in the other zones, e.g., “Mowing and maintenance of lawns, gardens, meadows,…” (Section 25A.4.2(a). As such, he questions the necessity of listing these activities and/or whether this section of the regulation jeopardizes that of other regulations. Commissioner Khan-Bureau noted that the Reasonable Man Rule might apply in this instance.

Section 25A.6.1 – Because there is a due process prior to the approval of a request to expand “the RCOZ in an alternate location”, this section may pose an issue. In addition, item (c) was noted as in need of clarification.

Section 25A.6.3 – Includes four additional criteria which must be met, the last two of which might be under the purview of the Zoning Board of Appeals, rather than the Commission and should, perhaps, be clarified with the Town Attorney.

7. NEW BUSINESS

a. Commissioner Training by Town Attorney Steve Byrne – November 27, 2018

Town Planner LaFountain is in the process of obtaining any written materials prior to the meeting for the Commissioner’s to review.

8. ZONING ENFORCEMENT OFFICER’S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT: *no report*

9. TOWN PLANNER REPORT: *no report*

10. CORRESPONDENCE: *none*

11. PUBLIC COMMENT: *none*

12. PLUS DELTAS

Chairman Duncan agreed to add the following item to their next meeting agenda:

Forestry Management Update

Unless a pressing issue arises, the next Regularly scheduled meeting on November 20 will be canceled.

13. ADJOURNMENT

M/S/C: Smith/Caron, to adjourn the meeting at 8:23 p.m. Discussion: None. Voice vote, 7-0, all in favor. Meeting adjourned.

Respectfully Submitted by:

Agnes T. Miyuki, Recording Secretary for the Town of Salem