

# CONNECTICUT RIVER GATEWAY COMMISSION

## REGULAR MEETING MINUTES

April 22, 2021

**Present/Absent:** [Excused absence (E); Unexcused absence (U)]

**Chester:** Tom Brelsford , Jenny Kitsen

**Deep River:** Jerry Roberts, *Conal Sampson*

**East Haddam:** Crary Brownell, Joel R. Ide

**Essex:** Claire Mathews, Misha Semenov

*Fenwick:* Newton Brainerd, Borough Warden

**Haddam:** Susan Bement, Mike Farina

**Lyme:** J. Melvin Woody, Wendy Hill

**Old Lyme:** Suzanne Thompson, Greg Futoma

**Old Saybrook:** Bill Webb

**Regional Reps:** Raul Debrigard (N), Marilyn Gleeson (N), Laurie Giannotti (S)

**DEEP:** David Blatt

**Staff:** J H Torrance Downes

**Guests:** Attorney Matt Willis (Gateway), Attorney Ed Cassella (The Point LLC), Attorney Bill McCoy (William Childress), Attorney Evan Seeman (David Frisbie), Colt Taylor (Smoke on the Water), Jon Kadama (property owner, former Dock & Dine site), numerous residents.

### Call to Order

This meeting was convened using the Zoom online platform. The agenda was formally posted in all eight Gateway member towns as required, with information directing interested members of the public to join the meeting online. Chairman Thompson called the online regular meeting of the Connecticut River Gateway Commission to order at 7:02pm.

### Approval of Minutes

Mathews moved to approve the minutes of the 3/22/21 regular meeting. Gleeson seconded and the motion passed unanimously.

### Review and Decision on Old Saybrook Zoning Regulations Concerning Outdoor Restaurants and Food Trailers.

Attorney Willis, Thompson, Downes and Old Saybrook ZEO Chris Costa introduced the regulations and described the statutory procedures that would govern the meeting. Willis outlined the statutory responsibilities in this process, noting for all gathered that the authority of the Gateway Commission is limited to those aspects of the regulation proposal that might result in adverse impacts to the scenic quality of the Connecticut River. Other concerns and considerations are outside of the authority of the Commission according to the governing statutes of Section 25-102a through s of the CT General Statues.

As a result of two requests for the Commission to schedule a public hearing as permitted in Section 25-102g CGS, upon a motion by Debrigard and a second by Roberts, the Commission voted seven (7) in favor of not holding a hearing and one against. As a result, the Commission moved on to review and make a decision on the proposed (locally-approved) regulations without scheduling the public hearing.

Following considerable discussion, and upon a motion to approve by Debrigard and a second by Brelsford, the regulations were approved by a vote of eight (8) in favor of approval and one (1) against approval. Pursuant to Section 25-102g CGS, the locally-approved regulations can now become “effective”.

### Review and Decision on Haddam Zoning Regulations concerning Tattoo Parlors

Downes presented a description of the locally-approved regulations. The regulations will allow a

nonconforming (prohibited by regulation) tattoo parlor in the Tylerville section of Haddam to relocated to a smaller site in the Higganum section of town. An amendment of the town-wide prohibition which impacts property in the Conservation Zone to accommodate this move, an approval from Gateway is required by statute. Upon a motion by Debrigard, which was seconded by Ide, the Gateway Commission unanimously approved the locally-approved regulations allowing them to become “effective”.

#### Presentation of Special Exception Application for “Smoke on the Water” Outdoor Restauarnt

Attorney Ed Cassell and restaurateur Colt Taylor presented for the applicant, The Point LLC. The project was described and maps and artistic renderings were presented providing a stylized version of what the restaurant will look like. Members asked questions and expressed concerns with issues regarding appearance of the proposed trailers (concerns over bright colors), appearance of several tents shown in the renderings (concerns over bright colors and patterned materials) and other issues. The question was raised with respect to whether the proposed permanent covered pavilion, which encroaches approximately 50 feet into the 100 foot Gateway structure setback (Section 58. ) requires a variance for such encroachment as none had been requested or approved. The applicant felt that variances previously approved for a 42-foot high elevated restaurant structure were said could apply to this application, rendering the need for the encroachment variance unnecessary. Attorneys for the applicant and the town (and Gateway Commission) have discussed and will resolve through application for a variance or deciding that the encroachment *is* covered under previous variances. Applicants also confirmed that lights for the restaurant will be on timers and will shut off after hours. Other concerns expressed by Commission members include fear of excessive, non-dark sky compliant lighting (the applicant reported that all lights, except for the decorative string lights, *are* dark-sky compliant), excessive noise from loud music, especially in neighboring and historic Gardiner’s Landing Park.

A motion was made by Webb, which was seconded by Gleeson, to have staff write a report that expressed support for the project but included the concerns discussed during this presentation. Debrigard modified the motion by stating that the Commission was “in favor” of the project as long as comments and concerns expressed by Gateway members are addressed. Further, the Commission requests that once plans have been modified to address comments (including necessary note explanations), the members request that those updated plans are resubmitted to the Gateway Commission for possible further comment. Webb and Gleeson agreed to the motion modification. The motion was approved unanimously. The report shall be prepared and circulated to members prior to forwarding on to the Zoning Commission to be included in the public hearing which is scheduled to commence on May 3, 2021.

#### Chairman’s Report

None provided due to length of meeting.

#### Finance Committee Report

Matthews presented two bills for payment, one in the amount of \$3,928.36 for staffing services, and one in the amount of \$55.50 for the legal services of Halloran & Sage. A motion to pay the bills was made by Matthews, and seconded by Ide. The motion passed unanimously

#### Rules of Procedure Committee

Webb reported that the committee will meet between now and the May 27, 2021 meeting in order to continue on revisions of the Rules of Procedure document and the Gateway standards as amended by Attorney Mark Branse. With Commission approval, the standards can be forwarded to Gateway towns for adoption.

#### Communications and Public Outreach Committee

Futoma presented a document which requests committee and non-committee volunteers for the various aspects of the marketing project being undertaken with the guidance of Community Consultants et al. That

document is attached to these minutes. A Communications and Outreach Meeting with the consultants and project volunteers is scheduled for Tuesday, April 27, 2021 at 5pm.

#### Land Committee.

Futoma indicated that, due to his elevation to the chair of the Communications and Outreach Committee, he will step back from chair responsibilities on the Land Committee. Giannotti agreed to act as co-chair. A search for another co-chair is ongoing. Futoma reported that the land committee is considering issues including land acquisition in Haddam Neck, the preservation of the Mount Saint John property in Deep River, and the prospects of USF&WS involvement in land acquisition in the East Haddam and Lyme area around Whalebone Cove. Reports will be forthcoming at the May 27, 2021 meeting. A land committee meeting is scheduled for Wednesday, April 28, 2021 at 11:30am.

#### Grants Committee

Because a shift in officers of the committee, work on the general grant application documents and on the specific request from the Roger Tory Peterson Estuary Center has been “paused”, but will expect to pick up again in the days and weeks ahead.

#### Staff Report

Downes noted that the staff report is self-explanatory and if there were any questions, members could ask. No questions were forthcoming. The Staff Report is attached to these minutes.

#### Executive Session

No executive session was convened, but Thompson reported that a discussion may convene in executive session at the May meeting when Commissioner’s Representative David Blatt can participate.

#### Old Business: None to discuss.

New Business: Gleeson and Thompson agreed to discuss “consent agendas” prior to the next meeting. Members, in an effort to make sure that Old Saybrook residents understand Gateway authority with respect to the Smoke on the Water application process asked Downes to contact CT Examiner’s Cate Hewitt, who was in attendance at the April 22, 2021 meeting. Members also agreed that similar explanation letters could be provided to those members of the public who provided written comments to the Commission for the meeting.

#### Adjournment

Bement moved that the meeting adjourn. Woody seconded and the motion passed unanimously.

The meeting adjourned at 9:16pm.

## Gateway Communications and Marketing Project

Discussion of Work Process and Schedule  
Communications Committee and Community Consultants/W Design  
Monday, April 27, 5:00PM

The Communications & Outreach Committee will meet on the above date with contractors Judy Anderson (Community Consultants) and Dorene Warner (W Design) to discuss the marketing project work process and schedule, including allocating project work to various teams. The time frames shown for various committees may be modified per the meeting's discussion and project progress.

If members would like to volunteer to work on the marketing project, they should contact Tom Gezo to express an interest in any of five work groups shown below. Volunteers are encouraged to attend the 4/27 "kick-off" meeting.

You may contact Tom at [tagezosr@gmail.com](mailto:tagezosr@gmail.com).

<b>Work Groups</b>	<b>Start</b>	<b>Finish</b>	<b>Team Members</b>
Website	April	Nov	Greg, Wendy, Torrance, Joel
Social Media	Sept.		Laurie
Newsletter	July	Oct	Joel
Publications/Brochures	Feb.'22		Melvin, Laurie
Overview Pitch (PowerPoint)	July '22		Claire, Melvin

**Staff Report**  
**April 22, 2021**

- **Approval of Old Saybrook Zoning Regulations Concerning Outdoor Dining and Food Trailers**

The Gateway Commission will be considering locally-approved zoning regulations concerning outdoor dining and food trailers. The regulations, if approved, would allow such an operation to be applied for on eligible properties in the Saybrook Point-2 District, the properties located on the riverfront (Hull Harbor Marina, Saybrook Point Hotel and Marina, Old Saybrook Park & Recreation [Vicky Duffy Pavilion and the Minigolf course], the Dock & Dine property and the Town Park known as Gardiner's Landing). Attorney Matt Willis, representing the Gateway Commission, will provide procedural guidance to members as you consider whether or not to schedule a public hearing (a request made by two attorneys representing neighbors of the proposed outdoor restaurant site) and then whether to approve or disapprove the regulation change. Gateway members will make a decision on the regulations based upon whether development that would be allowed is consistent or inconsistent with Gateway's mission of protection and preservation of the scenic quality of the river. If approved, the special exception application for the project will then be reviewed. If disapproved, the project stops.

As a note, the project must receive a Town Meeting approval of an ordinance which will allow temporary structures (trailers and other equipment) to exist within the VE flood zone prior to start-up. Without that ordinance modification, the project can't go forward as proposed.

Further, there will be numerous residents and two attorneys representing property owners attending the Zoom meeting, with some wanting to make statements. Chairman Thompson is determining whether and how to allow those statements to be presented as its discretionary whether Gateway wants to allow them. Counsel says it's up to the Commission and is reasonable to do so. Members will be able to consider those statements, or not consider them as it is the responsibility of the Commission to determine what is and what is not consistent with the "natural and traditional river scene".

**Haddam Zoning Regulation Approval, Tattoo Parlors**

Like the Old Saybrook zoning regulation petition, the Haddam P&Z locally-approved regulation changes that currently prohibit tattoo parlors in town, which made the one previously-existing parlor a nonconforming use. The parlor had to move out of Tylerville (and out of the Conservation Zone). The Prohibited Use section of the regulations was amended to remove Tattoo Parlors from the list of prohibited uses so the parlor could move into a location in Higganum, outside of the Conservation Zone. In order for those approved changes to become "effective", Gateway has to approve the regulation changes. As with the Saybrook proposal, Gateway has to the choice to (1) schedule a public hearing, (2) approve the change, or (3) disapprove the change. It is recommended that the change be approved without the scheduling of a public hearing.

**Special Exception Application for "Smoke on the Water"**

If the Gateway Commission approves the zoning regulations allowing outdoor restaurants with trailers, the applicant will present the already-submitted special exception application to establish the restaurant. Photos, renderings, videos and elevations have been submitted that will be presented on Thursday evening to provide an idea of what the operation will look like. In that this is a special exception application before the Zoning Commission, the decision on the project is under the authority of that Commission. Gateway's role is one of review and the provision of comments, concerns and suggestions for making the project more consistent with the "natural and traditional river scene". The Zoning Commission will accept the comments and consider them during the commission's public hearing which commences May 3, 2021.

- **Project to Rebuild a Barn at -110-5B Joshuatown Road in Lyme, the former Milne Property.** A new property owner plans to do renovations to the old home located on this beautiful property near the mouth of Hamburg Cove. They also plan to demolish several dilapidated outbuildings and replace them with a single barn with living quarters above, essentially in the same footprint as those outbuildings. The property owners plan to live

in the living quarters of the new barn while the antique home is renovated. However, there is a scenic easement in favor of the State of Connecticut which includes language of how and under what circumstances such development can occur. The property owners have requested an opinion regarding what the easement allows from the State in order for their project to move forward. Woody and Downes have separately been to the site to be able to determine what might be acceptable in the event that the State of Connecticut turns to the Gateway Commission for a recommendation on the scenic impacts of the project. The property owner will receive a determination from the State within two weeks and will know at that point whether the project can move forward as currently designed. In that the new structure will bring the *total* floor area on the property in excess of 4,000 square feet, ZEO Ross Byrne reports that a special exception application will need to be filed and approved by the Lyme Planning & Zoning Commission.

Executive Session. An executive session will be convened to discuss issues related to the Conservation Fund held by the Gateway Commission.

### Committee Reports

Committee agendas and minutes are now posted in the right column of the Gateway website ([www.ctrivergateway.org](http://www.ctrivergateway.org)) in order to fulfill requirements of the Freedom of Information Act (FIOA)

- Finance Committee: Payment of outstanding bills (RiverCOG staffing, Halloran & Sage).
- Rules of Procedure Committee: The Rules of Procedure Committee continues to revise the Rules of Procedure as well as move forward on the effort to have all Gateway towns adopt the 2018 Gateway Standards. Small revisions requested by Attorney Mark Branse (Gateway attorney and attorney for five of eight Gateway towns) are to be incorporated by approval of the committee and then the Commission before distributing to the towns for adoption. The small changes are said by counsel to be insignificant enough so as to not require the rescheduling of a Gateway public hearing. This important step is considered critical before the Gateway Commission can request the adoption of any further standards, including lighting standards. **The committee intends to submit revision requests to the Commission at the May meeting.**
- Community Relations/Communications Committee: The committee is requesting volunteers for various projects related to the marketing and website effort, volunteers that will work on specific portions of project. A document presenting the request was sent out via email on Wednesday, April 21, 2021. A meeting with the consultants is scheduled for Tuesday, April 27, 2021 to discuss and organize who will be working on what projects and to start moving forward. **Committee members and other volunteering members are asked to attend this meeting, which will commence at 5pm.** An agenda with zoom link info will be sent out prior to the meeting.
- Land Committee: Report as necessary by Chairman Futoma.
- Grants Review Committee: Due to some changes in the structure of the Grants Review Committee, work on overall grants documents and on the specific grant request from the Roger Tory Peterson Estuary Center has been paused for this month. **A report of further work and presentation of the RTPEC grant application materials will be presented at the May monthly meeting.**

**PROPOSED AND ADOPTED OLD SAYBROOK ZONING REGULATION LANGUAGE  
RE: OUTDOOR RESTAURANTS/FOOD TRAILERS/FOOD TRUCK CONCESSIONS**

APPLICANT-PROPOSED LANGUAGE: (YELLOW replaced with GREEN during process)

Summary: Removal of language allowing take out at such a restaurant, and removing language that would have allowed a food truck concession to be brought to the Saybrook Point town property.

**Restaurant, Outdoor.** An *outdoor restaurant* or other outdoor food and beverage service establishment serving customers who are consuming the food and beverage at tables or counters located outside. The establishment may provide food take-out service when (a) the service and transfer of food and beverages to customers is located in a designated area, (b) the food is intended for consumption off the premises, and (c) the service is clearly incidental to a primary permitted outdoor food and beverage service establishment where customers are served only when seated as specified. An outdoor restaurant may be a standalone permitted use on a lot or an accessory use to a building, use or facility of the Town, when such property is located on Long Island Sound or the Connecticut River.

FINAL APPROVED LANGUAGE (GREEN replaces YELLOW from above):

**Restaurant, Outdoor.** An *outdoor restaurant* serving customers who are consuming the food and beverages at tables or counters located outside. The outdoor restaurant is required to include restaurant facilities on the same lot, including, for example, dedicated restrooms, utility connections, tables, chairs, and hostess station. A Food and Beverage Concession Service (as set forth above) will not be used in the operation of an outdoor restaurant or be allowed as an accessory use for an outdoor restaurant.

APPLICANT-PROPOSED LANGUAGE: (YELLOW either deleted or replaced with GREEN below)

**J. Temporary Non-Residential Restaurant Trailer.** A wheeled trailer used for a permitted *outdoor restaurant* use, which will be located on private property on the same lot as the *outdoor restaurant* use. Temporary Non-Residential Restaurant Trailers will be used for storage, restaurant facilities, and/or food preparation and will be located on the Lot for fewer than 180 days in any calendar year, including time for installation, set-up and breakdown of the site and structures. When located in a *Special Flood Hazard Area*, the Temporary Non-Residential Restaurant Trailer will only be approved subject to a Storm Contingency Plan for evacuation of the site in the event of a major storm or hurricane as specified in Chapter 128 of the Old Saybrook Town Code Flood Plain Management.

FINAL APPROVED LANGUAGE (GREEN replaces YELLOW from above):

**66.2.2 D. Temporary Non-Residential Restaurant Trailer.** A wheeled trailer used for a permitted *outdoor restaurant* use, which will be located on the same lot as the *outdoor restaurant* use. Temporary non-residential restaurant trailers will be used for storage, restaurant facilities, and/or food preparation and will be located on the lot for fewer than 180 days in any calendar year, including time for installation, set-up, breakdown and removal of the trailers and other non-permanent features of the site. When located in a *Special Flood Hazard Area*, the temporary non-residential restaurant trailer will only be approved subject to a Storm & Flood Emergency Action Plan for evacuation of the site in the event of a major storm or hurricane as specified in Chapter 128 of the Old Saybrook Town Code Flood Plain Management.

APPLICANT-PROPOSED LANGUAGE (YELLOW is proposed additional language said to be added by applicant at the request of the Town)

Summary: The Town had requested that the applicant include language in the proposed text that would allow a food truck concession to be parked at town properties on Saybrook Point (the Vicky Duffy Pavilion, the minigolf course) by adding the language “or the Connecticut River” to existing language (see below). That language was eliminated by the Zoning Commission, so such concessions continue to be permitted on properties adjacent to Long Island Sound (the town-owned beaches) according to existing regulations **but not on town-owned properties on the CT River.**

**Food and Beverage Concession Service.** A food and beverage concession service is an *accessory use*, involving the

indoor or outdoor retail sale of food for consumption on the premises, such retail sale *not* being to the general public nor for consumption off the premises, but *accessory* to a **Building, Use or Facility** ~~park or playground~~ owned or operated by the Town of Old Saybrook when said ~~park~~ property abuts Long Island Sound **or the Connecticut River**. A food and beverage concession service may be permitted in any district by Special Exception Use when in accordance with the following standards and conditions:

- A. A food and beverage concession service will not operate when the *park* to which it is *accessory* is not open to the public, and in no event will a *food* and beverage concession service operate for more than six (6) months in any calendar year.
- B. A food and beverage concession service will not obstruct parking, loading, emergency access areas, pedestrian walkways or paths.
- C. A food and beverage concession service will provide service to patrons of the *park* to which it is *accessory*. Signs, advertising, promotion, or other market efforts directed to off-site patrons is prohibited.
- D. A food and beverage concession service will have a maximum floor area of no more than four hundred square feet (400 s.f.) of indoor or otherwise enclosed space. One wheeled cart or one motor vehicle situated on the property for a minimum of four hours per day may be permitted in lieu of a permanent building. No outdoor seating will be provided for this accessory use however *park* benches, picnic tables and other furniture located at the *park* on a year-round basis may be used for seating.

REGULATION REMAINS AS FOLLOWS (the Zoning Commission decided not to make the requested changes that were proposed. The effect, such concession service is still permitted at the two Old Saybrook beach sites on LIS, but not on the Connecticut River or at town properties not on LIS such as Founder's Park)

**Food and Beverage Concession Service.** A food and beverage concession service is an *accessory use*, involving the indoor or outdoor retail sale of food for consumption on the premises, such retail sale *not* being to the general public nor for consumption off the premises, but *accessory* to a *park or playground* owned or operated by the Town of Old Saybrook when said property abuts Long Island Sound. A food and beverage concession service may be permitted in any district by Special Exception Use when in accordance with the following standards and conditions:

- A. A food and beverage concession service will not operate when the *park* to which it is *accessory* is not open to the public, and in no event will a *food* and beverage concession service operate for more than six (6) months in any calendar year.
- B. A food and beverage concession service will not obstruct parking, loading, emergency access areas, pedestrian walkways or paths.
- C. A food and beverage concession service will provide service to patrons of the *park* to which it is *accessory*. Signs, advertising, promotion, or other market efforts directed to off-site patrons is prohibited.
- D. A food and beverage concession service will have a maximum floor area of no more than four hundred square feet (400 s.f.) of indoor or otherwise enclosed space. One wheeled cart or one motor vehicle situated on the property for a minimum of four hours per day may be permitted in lieu of a permanent building. No outdoor seating will be provided for this accessory use however *park* benches, picnic tables and other furniture located at the *park* on a year-round basis may be used for seasonal use.

### Introduction to Review and Decision on Locally-Approved Zoning Regulations

Under section 25-102g of the CT General Statutes, any zoning regulation that is approved affecting property in the Gateway Conservation Zone in the lower Connecticut River first requires the approval of the Gateway Commission before that regulation can become “effective”. The Conservation Zone is identified in Section 25-102c CGS and includes the land seen from the river up to the first ridge in the towns of Old Saybrook, Essex, Deep River, Chester, Haddam, East Haddam, Lyme and Old Lyme and as specifically defined in the statute.

On March 22, 2021, the Old Saybrook Zoning Commission approved a zoning regulation petition that proposed to add “outdoor restaurants” as a permitted use in the Saybrook Point – 2 (SP-2) District and permit the use of temporary trailers for the purpose of such outdoor restaurants. The properties of that district are in the Gateway Conservation Zone, so before those locally-approved regulations can become “effective”, the Gateway Commission is required by state law to approve them.

When such a local approval occurs, the Zoning Commission is required to submit its “decision” to the Gateway Commission by certified mail and, within 35 days of the “receipt” of that decision, the Gateway Commission must either make a decision to approve or not approve the regulation, or instead schedule a Public Hearing to take public input on the regulation change. The public hearing is not required by statute and is discretionary. The date of the April 22, 2021 meeting is within the 35 day time limit established in Section 25-102 g CGS. The review and decision on that petition, or the scheduling of a public hearing, is the subject of this discussion.

If the Gateway Commission “approves” the locally-approved regulations, those regulations can become “effective” and considered the law, subject to appeals. If those regulations are “disapproved”, the regulations cannot become “effective”. If a public hearing is scheduled, the approval or disapproval of the proposed zoning regulations would follow the close of that hearing.

For those not familiar with its mission, the Gateway Commission exists to preserve and protect the “natural and traditional river scene” within the Gateway Conservation Zone and has been doing so for almost 50 years. The primary responsibility of the Commission is to protect the scenic quality of the properties in the Conservation Zone as seen from the river and from properties in the town across the river. Numerous factors enter into the review for preservation and protection of the “natural and traditional river scene”. Those factors include, but are not limited to, the development pattern of the area of consideration, or lack thereof, and the development that would be allowed by the regulations that the Gateway Commission is considering. If the regulations would allow development that is contrary to the preservation and protection of the river scene, the Commission would disapprove them. Conn. Gen. Stat. Section 25-102g states that the Commission shall promote “...*the protection and development.... of such property... by means of classification of zoning districts according to types of land usage permitted therein, land coverage, frontage, setback, design and building height and by regulating the cutting of timber, burning of undergrowth, removing soil or other earth materials and dumping or storing refuse in a manner that would detract from the natural or traditional riverway scene, provided such action shall not discourage constructive development and uses of such property which are consistent with the purposes of this chapter*”. If the regulations would allow development that is consistent with the preservation and protection of the river scene and its statutory objective, the Commission would approve them. If not, the regulations would not be approved.