

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on April 16, 2008.

A. Roll Call

Present: Barbara Bell, Jim Connors, Ken Cowden, Joel Levitz, John Ludtke, Lynne McNamee, Steve Munson and Phil Fulco.

Absent: Allen Cegan and Jim Richard.

Fulco called the meeting to order at 7:35 p.m. and deemed Bell the voting alternate and proceeded to review the rules and process of a Public Hearing.

B. Old Business

1. **Application IW-A-08-011: Plains Road, WDC Milford Assoc. LTD -** Proposal to construct two hotels and a conference center with construction parking and grading in and within 150' of wetlands in the Beaver Brook Watershed.

Fulco reported that the File Contents List is on file and available; the Certificates of Mailing have been received.

Ray Macaluso of Westcott and Mapes introduced Attorney Leo Carroll, Jen Beno and KJ Patel, the applicant. Macaluso proceeded to review the application. He oriented the site to the plans. The site is off of I-95 exit 36. The existing buildings were reviewed. There are three separate parcels on site. This site is 13 acres in size. Two 4 story hotels and a conference center are proposed with access off the existing main driveway; there will only be fire truck access off of Ford Street. The three locations of wetlands were reviewed and one of these areas is proposed to be filled. An application was submitted one year ago for this site. The present applicant has re-engineered the storm water detention and removed one office building from those plans. The stormtech detention system proposed was reviewed. There will be catch basins with 2' sump pumps throughout the site and there will be a maintenance program for such. The roof drainage from the conference center will drain into the vernal pool area. Interceptors will collect oils from the parking lot. The drainage system was reviewed with the ultimate discharge to go to the Lily Pond. There will be zero increase in runoff. 7 acres of impervious area is proposed. 4,109 sq. ft. of wetlands if proposed to be filled and this will be mitigated in the vernal pool area with a landscaping plan. It is not required to go before the Army Corps. There is landscaping throughout the site that will enhance the whole area and this was reviewed on the plans. The area will be well buffered from Ford Street; it is to remain all natural. Dumpsters will be enclosed with fences and these locations were reviewed. The snow shelf was reviewed. It is on the east side of the

property and will go into the drainage system. The IWA requested questions to be addressed from the last meeting with the memo from Westcott and Mapes to MaryRose Palumbo dated 4/16/08 was reviewed (copy attached). The City Engineers' memo dated 4/16/08 was also reviewed. Item 10 in this memo is in disagreement with the City Engineer and Westcott and Mapes and they will sit down with him and work this out.

Jen Beno, Biologist – stated that she has 14 years with Soil Science Environmental Services. She proceeded to review her Environmental Assessment Report dated 3/7/08. (Copy on file) In July 2007 the site was flagged for wetlands by Ken Stevens. The other Soil Scientist deemed wetland 4 a wetland for the previous application based on standing water. Ken Stevens did not consider this area to be a wetland (he noted a moderately drained soil) so they went conservative and added it as a wetland on the design plan. Beno walked the site on 2/28/08 and today and reviewed the site conditions. She reviewed all 4 wetlands areas per her report. There was no water observed in wetlands #1. Wetlands area #2 is a vernal pool and this was reviewed; no egg masses were viewed, fairy shrimp were observed, there was 6-12" of standing water today. Wetlands #3 is the Lily Pond and this was reviewed – open water habitat. Wetlands #4 is a wetland created through disturbance from previous excavation and fill, vegetative species were reviewed, no standing water was observed. Wetlands #4 is 4,109 sq. ft. and proposed to be filled. Beno stated that this will have no adverse impacts; it is a small isolated created wetland and has no endangered species. Wetlands #2 impacts are to be mitigated by directing the roof runoff into the vernal pool. This will maintain its water supply. There will be enhancement of the natural buffer and will provide a natural habitat. Some additional recommendations were made; a small swale or plunge pools and this has been included in the plan. The natural buffer will be increased with plants and extended at the eastern portion of the property. Invasive species will not be utilized; substitutes have been recommended and incorporated.

Fulco called for those **IN FAVOR** of the proposal:

None.

Fulco called for those **AGAINST** the proposal:

Dr. Samantha Dane, 300 Ford Street – she asked who would be responsible for removal of the run off. She anticipates problems and wants to know who will be responsible for repairs. She did not understand the mechanics of cleaned water to the Lily Pond. This area is habitat for

duck, deer, porcupine, etc. and this will be disrupted and pocketing the area will restrict movement. The small wetland is still valuable to the area. The back parking lot will likely have trucks parked there and this will leak diesel, etc. She asked how much increase in depth would the landscaping be and fears this may be inadequate as the area will become very populated.

John Richardson, Rockwood Court – stated that any swales would be mosquito breeders and this is a concern. He further asked about the pumps and what would happen if there was a power failure and who would be responsible.

Joe Potter, 299 Ford Street - asked about the management program stating that this should be implemented before any approvals.

Miriam Carta, 32 Rockwood Court - asked about impervious area and if there would be blasting. She further stated that foxes have killed two of her cats and she fears with this development animals would be coming in their yards.

Nora Masella, 55 Roundhill Terrace – stated that she did not receive a letter and asked about blasting. There are a lot of streams in the area and this will affect our homes and she would like to know what recourse there would be. MaryRose stated that she did not receive a letter because her property does not abut the property for this project. Fulco stated that certificate of mailings were submitted by the applicant and the Public Hearing notification was published.

Sheila Fox, 300 Fox Street – asked if the impervious materials were the asphalt or the buildings and questioned if the ambient temperature would increase and what the expectations were with the runoff from the conference center to the vernal pool and how this is to be cleansed. And increase in coverage from 2% to 52% is significant and she asked how much of this was asphalt. She would also like to know the ratio of plantings verses asphalt.

Brian Lema, Attorney representing his in-laws of 265 Ford Street submitted the Natural Resource Inventory and noted Section 10.2 of the IWA Regulations regarding the impacts of a regulated activity to wetlands and filling of wetlands #4 and an activity within the regulated area. He asked if any feasible or prudent alternatives were considered. He questioned the relationship between long and short term impacts. He asked about enhancing or mitigating for the loss of wetlands #4 and stated that a relatively minor landscape area is proposed and he suggested a

wildlife corridor. He further stated that the regulations address prevention of pollution or to restore or recreate wetlands; noting that wetlands #4 is not the most productive wetland but he questioned if any enhancement was proposed. The Inventory stated that this site is within the Beaverbrook Watershed and Section 8.4 of the regulations state that the Water Company must be notified. The IWA is to restrict and regulate activities within a 150' buffer area. He asked if there were any other alternatives to parking; tiered parking. The area between the parking and the wetland needs to be increased. He further asked about snow removal. Dumping over the retaining wall is a concern that it will go into the wetland; a fence or other barrier is needed to prevent invasion. Most storm water is proposed to drain into the Lily Pond and he questioned why anything is to be draining into the wetland area. The Inventory contains a description of the Lilly Pond and this is a sensitive wildlife area worthy of protection.

John Richardson, Rockwood Court asked who would monitor the run off into the swamp.

Scott Mason, 211 Plains Road asked about diesel fuel and gas and if it would break down. He has dogs that go into the pond and this is a concern. There are all kinds of birds there and there is a bird sanctuary in one area.

Allen Bowen, 43 Southworth Street stated that the proposed parking lot area along I-95 has a lot of elevations and with this plan it is to be leveled and he is concerned with drainage and asked how much water would be collected in the detention area.

Susan Bowen, 43 Southworth Street stated that there is an isolated wetland but asked at what point is it so isolated that it disappears from all of the surrounding construction. It is not insubstantial.

Ron. Suhanosky, 7 Marshall Street stated that there is a natural spring in the area and this is a concern. Plains Road used to get flooded out and he is opposed to the whole project. He used to skate here.

Doug Coby, 7 Southworth Street is concerned with the winter season and salting the parking lot and asked where this would go.

Linda Bowen, 20 Southworth Street is opposed to any building here and she wants to enjoy the area.

John Richards asked why the IWA would entertain messing with the wetlands when he was denied to mess with the wetlands.

Fulco called for **REBUTTAL**:

Ray Macaluso addressed Dr. Dane's concerns regarding who would maintain or repair the drainage system. The applicant/owner will be responsible and a maintenance plan will be submitted and in place and is part of the approval process. Regarding how does the system clean water – with good engineering practices, the system will clean water. It is designed to take solvents and it will be cleaned before it goes into the Lily Pond. Regarding the back parking lot, vehicles and alternatives –the site is 13 acres and the whole site was looked at, they will maintain the vernal pool and there are no alternatives. Regarding pumps and power failures; the pumps are not electrical they are based on gravity. Blasting – these questions can not be answered until test pits are done and then during construction. No natural springs were seen in this area based on tests and research. Regarding water to the vernal pool; the vernal pool will dry up without this. The whole site has been balanced. The previous system was to be 20' deep, this application was re-engineered and the City Engineer approved the storm water detention plan. The design is to collect all sediments and if it is maintained it will work. Good engineering practices were used and they will recharge the vernal pool. Macaluso used to skate here also. Regarding the landscaping – this can be enhanced if preferred and a fence can be addressed as well. Regarding truckers in the rear parking lot – it can be policed. Regarding the impervious surface – page 2, #11 of the City Engineers' memo agrees with the calculations submitted and he would like to add more water to the vernal pool; Westcott and Mapes does not. The asphalt and buildings compile the impervious area.

Jen Beno stated that the site is next to I-95, Plains Road and Ford Street and is mostly previously disturbed. She reviewed the area to be enhanced and if more is wanted, this can be done. The vernal pool and the Lily Pond will always have mosquitoes; the plunge pool will not create more. Regarding the ambient temperature to the vernal pool; it is not wanted for this to be increased as it could effect the fairy shrimp. Fulco clarified that the concern is that the ambient temperature would rise due to development. Beno stated that the concern with water temperature has been addressed. The roof runoff to the vernal pool is to maintain the water supply. The habitat to the Lily Pond has been ruled moderate; not high due to it being surrounded by development. Wetlands all provide functions – low, low to moderate and moderate to high. The Lily Pond is not being reduced. Mitigation is plantings to enhance the vernal pool no wetlands creation is proposed. The isolated wetland that has been

referenced is off site and is man made. Macaluso stated that they will entertain a fence on Ford Street with plantings.

Attorney Carroll stated that it is not required to notify the Regional Water Authority for this project. MaryRose further clarified that this property does not directly abut Water Company property.

Mrs. Carta asked about blasting and the animals.

Macaluso stated that blasting is not an IWA issue and that during the next phase of construction, borings would be done to determine if there is rock in the area. Ludtke stated that this is not the DEP and that the only concerns are wetland issues. Munson stated that the public can comment on the rebuttal next.

Fulco called for those in **FAVOR OF THE REBUTTAL:**

None.

Fulco called for those **AGAINST THE REBUTTAL:**

Nora Masella, Roundhill Terrace asked if Bailey Lane was eliminated. Ludtke stated that this address was not brought up in rebuttal and new information could not be addressed. MaryRose stated that she could speak to her about this at the end of the meeting.

Joe Potter questioned the issue with increasing the ambient temperature and if this project would increase the land and air temperature would this not affect the water temperature.

John Richardson – he is against the project and asked who will take care of the pollution of the water to the vernal pool.

Attorney Lema asked about alternatives and that this is a lot of activity in a regulated area. Could there be structured parking in a different location; the spaces reduced; building size reduced; the intensity is too much for the site. Could there be 3 floors verses 4 floors; are there any plans for snow removal?

Susan Bowen asked about the smaller wetland stating that it will be contained until it dries up.

Sheila Fox stated that with an increase from 5% to 52% of impervious area and asphalt on half of the property the temperature will increase. She asked what the relation in percentage was the impervious area verses more vegetation. How will it be ensured that the water to the vernal pool will be clean?

Dr. Dane asked how liquid pollutants get cleaned out and what kind of fall back would there be if there is a mistake or leak and how is the area to be restored. Good engineering practices are on paper but she stated that it is how it is carried out that matters and if it is properly maintained and she is unsure of this. This plan is squeezing the life out of the vernal pool by surrounding it with parking making it no longer a natural source and she asked what happens in dry seasons. The surrounding area is a pocket forest and this plan may endanger the entire thing. It was stated that this area is previously disturbed and low functioning; but the area is beginning to recover from disturbance and now repaving is being planned.

Attorney Lema – suggested parking easements as an option and reserving the rear area for future use and not disturb the rear area.

Ron Suhanosky, it was stated that there is no natural spring when there is one in the Lily Pond. Fulco stated that there are experts in this field that are testifying that there are none and that only an expert can dispute this.

Attorney Lema stated that in the Inventory on page 46 it references opening clogged springs when dredged.

Scott Mason stated that when the pond was dredged it did rejuvenate aquatic springs; this is a spring fed pond with three distinct springs.

REBUTTAL

Macaluso stated that there is no spring on site; they did not investigate the Lily Pond. The IWA regulates and monitors water maintenance and quality. The site can be developed based on Planning & Zoning regulations and they are trying to balance the site with the regulations. There are 13 acres with 3 allowed uses.

Attorney Carroll stated that the experts have to be listened to. There is no significant decrease in wetlands function per Jen Beno. They have complied with the statute and the wetlands map does not show a spring in the area.

Jen Beno addressed the water temperature. Water storage will be underground and will be cooled. Essentially roof water run off is clean. The vernal pool area – the roof run off will compensate for the changing supply and the calculations determine that this will compensate for this loss. If there is a very wet or very dry season; water will be more or less.

IWA Questions

Ludtke asked about wetlands #4 and if it was man made was there a sub soil inspection. Beno stated that Ken Stevens dug with an auger in 2007 and he found moderately well drained disturbed soils and this description was addressed in her report. Ludtke stated that a fence around the wetland area is very important for safety and intrusion. I-95 is a problem and he asked what kind of protection could there be. Macaluso stated that there is an existing chain link fence the whole length of the property and they are proposing a retaining wall and fence that equals a 13' high buffer. They will entertain fencing along Ford Street and the rear parking. Connors stated that if there is a fence on Ford Street this would hold animals in but a fence by the rear parking would prevent garbage from going into the wetlands.

McNamee asked about zero increase in runoff and what that means. Macaluso stated that runoff is from these 13 acres only. They are adding impervious area and balancing it by detaining runoff and then it flowing out so that discharge is the same at a controlled rate.

Munson asked about the grading by I-95. It slopes downwards North to South. Macaluso reviewed this on the plans; it goes from elevation 76 to 67 and drainage is being caught in catch basins. Munson clarified that there will be no standing water; it will drain out. Macaluso confirmed this and stated that this whole area is snow storage away from the Lily Pond and the vernal pool. Munson asked about salt, sand and ice. Macaluso stated that this would be a condition in the maintenance plan. Munson asked about the mentioned bird sanctuary. Fulco stated that Bart Block unofficially had one on his property. MaryRose stated that there is nothing official and there is nothing in the subdivision of the property. Munson stated that a wildlife corridor was mentioned and he asked if there would be less wildlife on site than there is now. Macaluso stated that the rear area will remain natural. Munson stated that changing the parking was mentioned – multi story parking and asked if this was considered. Macaluso stated that there is no other location for parking and multi story parking is not feasible and nothing can be put over the detention basin. Munson asked if it is feasible to stack parking in the rear to use less space. Macaluso stated that it is no and it was not considered.

Ludtke asked if the area was solid or if it infuses water. Macaluso stated that it infuses water so it does percolate into the soil.

Munson asked about the revision from the previous plan and why 7' deep is better than 20'. Macaluso stated cost was a factor. The depth was concrete and would take one year to construct. This is a different system proposed. MaryRose stated that 20' would dewater the area.

Cowden stated that the wetland proposed to be filled is approximately 4,000 sq. ft. and he asked what has been a requested ratio of fill verses creating. MaryRose stated that it has been 2 to 1. Cowden stated that offsite mitigation has been done and can be visited with this project. He further stated that 13, 7 and 64 plantings are not enough and this needs to be revisited.

Bell asked what the number of parking spaces were in the rear area. Attorney Carroll stated that there were 172 spaces proposed. Bell stated that a 5% to 52% increase in impervious area has been stated but it looks more like 60% on the plans and she asked what was counted to arrive at the 52%. Macaluso stated that this was based on Mark Davis's figures and he can clarify this with him. Fulco stated that there are islands of vegetation throughout the parking area as well.

McNamee asked for clarification of the snow shelf. Macaluso stated that there is no intention of snow going over the retaining wall. It is to go along the I-95 corridor and drain into the catch basins. McNamee asked about the landscaping and that it would not be grass and pretty but more natural. Macaluso stated that the islands are to be planted and that all landscaping regulations were adhered to and they are open to incorporating more. The vernal pool area is more natural. Steve Wing addressed this in his plan and is open to enhancing.

Fulco asked about a water/oil separator. Macaluso stated that it is all part of the plan. Fulco clarified that roof drainage per the DEP is considered clean water. Macaluso and Beno confirmed this. Fulco asked if there is ledge and blasting is required if there would be modifications to the plan. Macaluso stated that they have not been hired for the next step but if their services continued then yes they would and they would use mechanical means to alleviate concerns.

MaryRose stated that approval requires project oversight and asked who would be doing this. The applicant stated that they did not have that yet. MaryRose stated that credentials of this person need to be seen before construction could begin and weekly reports would be required.

Munson referenced the City Engineers' memo and the disagreement with the calculations. Macaluso stated that with item #10 there are concerns with the vernal pool. The City Engineer feels more water should flow into the vernal pool. His formula and Westcott and Mapes differ and Westcott and Mapes feel the City Engineer has a miscalculation and they feel they are correct. This will be resolved.

Bell stated that there are two issues to be resolved; Mark Davis's calculations and the City Engineers' calculations. It was discussed if tiering parking could be explored as a third item. Ludtke stated that as the former Chairman of the Planning & Zoning Board there is criteria used and there is no flexibility at all.

Macaluso stated that pavers could be used in the rear parking area in lieu of asphalt. MaryRose stated that that would alter the storm water calculations. Cowden discussed that tractor trailer trucks oil, etc. would leak into the soil with pavers. It was discussed that a reserve parking area could be explored with Planning & Zoning. This would be a redesign with storm water calculations, etc. The conclusion was that there are no alternatives for parking.

Fulco stated that the Public Hearing would remain open for 2 items; calculations for the impervious surface and the City Engineers' calculations for roof drainage; until the next regular meeting on 5/7/08.

A five minute recess was taken.

C. Public Comments

None.

D. Old Business

- 1. Violation IW-V-08-14: 38-40 Prospect Street, Charles & Lily Flannigan** – Construction of a deck and addition, landscaping, regrading and placing material on the edge of the Wepawaug River with work in and within 150' of a wetland or watercourse in the Wepawaug River Watershed without a permit. Application to be submitted by 6/30/08.

MaryRose reported that this is the violation at 38-40 Prospect Street. The Flanagan's & Mr. Vernon have stopped working in the Wepawaug River

and have hired a surveyor to comply with the Agency's order. They are planning on submitting it for the next meeting. No action taken.

E. Minutes

Bell made a note of an error on the minutes of 3/19/08 on page 1 clarifying MaryRose verses she. A motion was made by Connors, seconded by Ludtke to approve the minutes of 3/19/08 as amended and the minutes of 3/26/08 as presented. The motion carried unanimously.

F. Subcommittee Reports

- Ludtke reported that there has not been a meeting of the subcommittee but the suggested changes have been combined with the regulations and submitted for review. He suggested holding action until the State makes their changes.
- Bell referenced the Habitat newsletter and CACIWC and that there are 3 bills in legislature now; one is for funding for DEP staff positions to assist with wetlands. There is new language in the Statute and river front buffers would be a major difference in responsibility. These bills are not likely to pass but they are before legislature.

G. Staff Report

- Spring DEP training information was in your mail and was emailed to you before the last meeting. If you are interested in attending please let the office know ASAP so that we can get you signed up for the date you want to attend. Right now Old Lyme is full but they are taking a waiting list.
- We starting to see a rise in inquiries in the office for additions, new purchases and decks.

H. Chairman's Report

None.

The next regular meeting will be on 5/7/08.

There being no further business to discuss, the meeting adjourned at 10:35 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.