

Minutes of the Regular Meeting of the Inland Wetlands Agency on June 2, 2010.

A. Roll Call

Present: Alan Cegan, Cathy Collins, Jim Connors, Ken Cowden, John Higgins, Joel Levitz, Lynne McNamee and Phil Fulco.

Absent: Eric Karlsen and Steve Munson.

Fulco called the meeting to order at 7:30 p.m. and deemed Collins the voting alternate.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Comments

None.

D. New Business

- 1. Violation IW-V-10-018: 21 Maddox Avenue, James H. Foley** – Clear-cutting and removal of vegetation in and within 100' of a wetland or watercourse in the Housatonic River Watershed without a permit.

MaryRose reported that this is a violation issued May 27th to James Foley for clear-cutting and removal of vegetation in and within 100' of a wetland in the Housatonic River Watershed. Based on a complaint of clearing and filling, she walked the property on May 18th with Kristen Bellantuono and Kevin Zavoy of DEP-OLIS and Emmeline Harrigan, Assistant City Planner. On site they met Carolyn Foley who stated that she had cut and pulled Phragmites out of her rear yard and was planning on planting it with grass and native vegetation, bringing in material if necessary and possibly making a small pond. They told Ms. Foley that a permit was required to clear or fill in and within 100' of a wetland. She stated Phragmites is an invasive plant that the State is cutting and so she cut it too. They explained that the State had a permit to cut the Phragmites and she would need one as well. MaryRose passed out a photo sheet and GIS map showing the location of the property. The photos were taken from the rear of the Foley's property adjacent to Scott Street and show the Foley's rear yard with grass to the edge of the cleared area. Some Phragmites are visible along the property boundary to the West. A thin band of Phragmites wraps around the North side of the property, behind where she was standing to take the photo. It had rained the morning of the site visit and standing water is visible in the photos. MaryRose further stated that the whole area appears to be wetlands based on the site visit by herself and the DEP.

Fulco stated that the yard would fall well within the regulated area for wetlands even though there is no report. MaryRose stated that although the plans are advisory only; both she and the DEP performed a site visit and it is her opinion

that the site is wetlands. She recommends upholding the violation. The complaint came in due to water and mosquitoes and a plan to fill.

Levitz asked how far away the house was. MaryRose stated that it was 120' away. Levitz stated that he would hate to cause a financial hardship. MaryRose suggested that the violator begin with flagging the area to see what the situation is.

McNamee stated that she would hate to lead them by just asking for a Soil Report now and then a survey later. MaryRose stated that the extent of the violation needs to be determined so at a minimum a soil survey is required. If the resident came to the IWA first, a soil report and a survey would be required in order to determine what would/could be done and the process for this. Fulco stated that it has been the IWA practice that if there is to be filling of a wetland that a Public Hearing would be required as well.

The following motion was made by Connors, seconded by Cegan:

Mr. Chairman I move that cease and desist order IW-V-10-018: 21 Maddox Avenue be upheld and the violator be ordered to:

- Hire a Certified Soil Scientist or Professional Wetland Scientist to flag the wetland line and submit a report on the property at 21 Maddox Avenue. The report must include the location and types of wetlands on the property.
- Submit a class A-2 Survey with topography (existing and proposed 2' contour) showing the wetland line as flagged by a Certified Soil Scientist or Professional Wetland Scientist and all site improvements including the structures, driveways, utilities and drainage. The A-2 Survey must be by a Land Surveyor Licensed in the State of CT. The site plan must also be signed by the soil scientist that flagged the wetlands, attesting to the location of the wetland line.

The motion carried unanimously.

2. **Violation IW-V-10-019: Raton Drive, Roderick McNeil, McNeil Enterprises, Inc.** – clear-cutting and removal of vegetation and stockpiling of material in and within 100' of a wetland or watercourse in the Housatonic River Watershed without a permit.

MaryRose reported that she spoke with Rod Mc Neil on 6/1/10 in response to the violation order she issued on May 27th for clear-cutting and removal of vegetation and stockpiling of material within 100' of a wetland without a permit. Mr. McNeil lives out of state and asked if she could meet with him onsite next week to walk the property and discuss the violation. She recommended that the Agency uphold the order at this time and require Mr. Mc Neil to meet with Staff to discuss the violation and to submit a site plan showing the work and improvements located on site in relation to inland wetlands on the property by July 21, 2010.

The following motion was made by Connors and seconded by Cegan:

Mr. Chairman I move that cease and desist order IW-V-10-019: Raton Drive, be upheld and the violator be ordered to:

- Meet with the Compliance Officer to review the operations on site.
- Hire a Certified Soil Scientist or Professional Wetland Scientist to flag the wetland line and submit a report on the property at Raton Drive Map 73, Block 928, Parcels 4F, 4G, 4H and Map 62, Block 928 Parcels 4C, 4D, 4E. The report must include the location and types of wetlands on the property.
- Submit a class A-2 Survey with topography (existing and proposed 2' contour) showing the wetland line as flagged by a Certified Soil Scientist or Professional Wetland Scientist and all site improvements including the structures, driveways, utilities and drainage by 7/21/10. The A-2 Survey must be by a Land Surveyor Licensed in the State of CT.

The motion carried unanimously.

3. **Application IW-A-10-020: 100 Red Root Lane, Joshua J. Michels** – construction of a new home and razing of existing home with construction and grading within 100' of a wetland or watercourse in the Wepawaug river Watershed.

This item is on the agenda for the first time and can be heard at the 6/16/10 meeting.

4. **Application IW-A-10-021: 612 Wheelers Farm Road, United Illuminating Company** – maintenance of UI easements within 100' of a wetland or watercourse in the Housatonic River Watershed.

This item is on the agenda for the first time and can be heard at the 6/16/10 meeting.

E. Old Business

1. **Violation IW-V-10-016: 267-269 Brewster Road, Estate of Doris Frank** – work within 100' of a wetland or watercourse in the South Central Shoreline Watershed without a permit.

MaryRose reported that this is the violation issued to the Estate of Doris Frank for dumping soil, brush, a truck tire and woodchips within 100' of Burkes Pond in the South Central Shoreline Watershed. She visited the site yesterday with Roger Bernard on behalf of Rose Shaw. They hired Otto Theall who re-flagged the wetland line on the property on Monday. On the Photo sheet you can see that Otto has located the flags in the area of woodchips and material on the rear of the site. Mr. Bernard spoke with Otto regarding a plan to stabilize the area. Otto recommended pulling everything over the wetland line out of the wetland and pond and leaving a 2:1 slope which could then be stabilized with chips and

plantings. The upper area would then be stabilized with lawn/plantings and wood chips. There is a stand of Japanese knotweed along the edge of the pond that they are trying to control with woodchips Mr. Bernard and Mrs. Shaw are here this evening to answer your questions. MaryRose noted that the Shaw's were given until 6/16/10 for a solution and they were able to hire someone already.

Cowden asked if the work was to be done by machine or by hand. Bernard stated that most of the work would be done by hand and some would require a backhoe. He thinks that the area by the waters edge would grow back within a month. Fulco stated that the IWA's expert in this area of landscaping is Comm. Cowden. It was discussed that it would be stabilized now and then replanted in August. Bernard asked if he could do a more gradual slope without plantings. MaryRose stated that the slope keeps it out of the regulated area and maintains the yard area.

The following motion was made by Connors, seconded by Levitz:

Mr. Chairman I move that cease and desist order IW-V-10-016: 267-279 Brewster Road, Map 80, Block 709, Parcel 16, be modified to include by July 21st the property owners must:

- Remove the wood, brush and fill material the pond and wetland area
- Establish a 2:1 slope to the wetland line that is to be stabilized with plantings and woodchips.
- Install hay bales or silt fencing along the wetland line using best management practices to prevent additional material from entering the wetland until the site is stabilized.
- Plant native shrubs along the top of slope on 10' centers
- Plantings to be installed by October 15, 2010

The motion carried unanimously.

F. Minutes

A motion was made by Connors, seconded by Cegan to accept the minutes of the 5/19/10 meeting as presented. The motion carried unanimously.

G. Subcommittee Reports

Levitz reported that the Regulations Committee will meet on 6/16/10 at 6:15 p.m. if MaryRose is able to attend.

H. Staff Report

- Business is picking up in the office –typical for this time of year sheds, decks, pools and small additions.

- West Ave Sewer is still on hold
- Buckingham Ave sewer has started
- Chase Bank is just about finished
- The Marion Ave house is almost completed
- The West Main St subdivision has been completed
- The Alternative Ed program will be doing an invasive removal project and trail restoration at Mondo Ponds this Saturday. Their Teachers have invited anyone who would like to participate to join them at Mondo ponds to see the work that the kids are doing.
- Regarding Cowden's question from last month; currently if MaryRose is out of the office, Kathy can sign off on minor activities – sheds, pools, etc. and then MaryRose reviews them when she returns. With the new rules, the process is uncertain. Fulco stated that we need to get down and find out exactly what is happening. MaryRose is to write out the concerns and send it to the powers that be to determine how things will be set up. Clerk Kuchta will no longer be our Clerk she will be a pool clerk and it is uncertain if we can commandeer her to do IWA work. Clerk Kuchta has been through all of the training and has the experience. Collins agrees that her expertise and training should be included so that she is not looked at as just a clerk – her job description should be changed to reflect her actual duties. McNamee stated that the focus should be on the position with qualifications and not the person. Cegan asked if it was feasible to talk to the Director. Fulco stated that he is waiting for an invitation to sit down and discuss the Agency with the DPLU Acting Director. Levitz stated that he certainly does not want homeowners to suffer from these changes but understands the concerns. Fulco stated that he is afraid that the good reputation of the IWA will be lost because of these changes.
- MaryRose will draft a letter for Agency review.

I. Chairman's Report and Communications

- Fulco stated that the IWA budget has disappeared now we have the DPLU line item mixed together - \$1700 in training for the 3 departments – when we had our own training expenses now we don't have control over whether we can go to training or not. McNamee stated that these are the procedural things that need to be listed in the letter and document what the questions are on this new reality for the Agency articulating why we have issues with the new department and procedures.
- DEP training - McNamee felt there was some really good information especially the Attorney Generals presentation by Scott Kosowitz. The ruling on farm permitting was very useful. Collins stated that a lot of people are claiming farm status. The afternoon class was on pesticides and impacts to endangered species. McNamee - NDDb new maps and lists for Blob maps; where they are, how to submit for review and to use them for a resource. They have a lot of the threatened and endangered

information and we should consider writing that in as a submittal required by the applicant. Focusing on the Legal issues and focusing on the Record was addressed. Sometimes there are off hand comments and it needs to be sure that there is nothing that could be viewed as predetermined or biased. So we should be on-point without sharing personal opinions to avoid predetermination claims. The use of Google Earth for historic data was reviewed. Exemptions were addressed; the IWA can require a bond in the event that a farm ceases to exist and wetland restoration needs to occur. Fulco stated that the State is looking at farms very differently now and they are encouraging little backyard farms.

- There is a Freedom of Information meeting on 6/29/10 from the Mayor's Office. There will be 2 sessions; one at 2pm and one at 6pm.

The next regular meeting will be on 6/16/10.

There being no further business to discuss, the meeting adjourned at 8:45 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.