

Minutes of the Regular Meeting of the Inland Wetlands Agency on May 05, 2010.

A. Roll Call

The following Commission Members were present:

Commissioner Collins, Commissioner Cegan, Commissioner Connors, Commissioner Cowden, Chairman Fulco, Commissioner Higgins, Commissioner Levitz and Commissioner McNamee

Others present: Clerk Kuchta and Compliance Officer Palumbo

Absent: Commissioner Munson, Commissioner Karlsen

Chairman Fulco called the meeting to order at 7:32 p.m.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Comments

None.

D. New Business (Applications will be accepted for discussion at the next meeting. Pre-applications can be discussed at this meeting.):

1. Violation IW-V-10-025: 98 Fresh Meadow Lane, Map 86, Block 914, Parcel 2A. Anthony and Jennifer Green; Clearing and stockpiling of material within 150' of a wetland or watercourse in the Wepawaug River Watershed without a permit.

MaryRose stated that this was a violation issued on 6/10/10 to Anthony & Jennifer Green for clearing and stockpiling within 150' of a wetland and watercourse at 98 Fresh Meadow Lane in the Wepawaug River Watershed. On a complaint she viewed the site from an adjacent property and noted that the property owner was dumping and piling woodchips in and adjacent to a watercourse on the site and within 150' of wetlands on the rear of the property. MaryRose explained the copy of a Pictometry photo from the City GIS system which shows the site in 2006 and calls out the location of the watercourse as it flows through the property. The 11" X 17" 2005 GIS print shows the stream as it runs from elevation 62' at the NW portion of the property to elevation 52' where it enters the property at elevation 90 Fresh Meadow Lane. The area next to the watercourse and its backs up to the wetlands are mostly cleared and piled with woodchips. There is an animal coop that is visible on the GIS print adjacent to the watercourse. MaryRose recommended that the property owners identify the wetlands on the property and submit a plan by a professional wetland scientist for mitigation plantings along watercourse and wetland areas that have been cleared and covered in woodchips.

The Chairman asked if the homeowners wanted to make any comments. Jennifer Green of 98 Fresh Meadow Lane stated they purchased the property in 2007 and they have been

taking some of the under brush out to prevent their three children from getting tick bites and they have been trying to grow grass and they did not know they were doing anything that was in violation. Anthony Green of 98 Fresh Meadow Lane said that there are 4 to 5 cords of wood which is stored on the property that is used for heating the house in the winter time.

MaryRose said the area along the stream bank seemed to be totally denuded and covered with wood chips. The tannins in the woodchips won't help anything growing in the stream, as they start to decompose you start to lose your stability and start eroding along the edges. There needs to be some brush or anchoring and root systems along the stream banks in order to keep it healthy. The lack of roots will cause the stream will eat along their yard and erode the yard away because there is nothing to hold the soil back. MaryRose asked if they had a planting plan. Mr. Green stated that he wanted to plant a couple of fruit trees and pine trees and everything that they cleared was dead and leaning up against other trees. There still are a couple of dead trees back there and right now along the water but there is some brush growing back.

Chairman Fulco asked if there was another area of the property that the wood could be stored. Mr. Green said absolutely, he will move the wood to another area. Mr. Green asked MaryRose if he could put some rocks along the stream to stabilize it. MaryRose said that it depends on how heavy the stream runs, you need to know the velocity of the water because if you put in something too small and if the stream picks it up it will cause a blockage under the road and then you will end up with a pond in your yard. MaryRose will ask The Conservation District to come down and ask for advice on what kind of plants that they could plant to stabilize the banks. Commissioner Connors asked how long the brook was and how high the bank was and MaryRose replied that it was approx 150 to 200 ft long. Mr. Green said it was about 2 feet deep. Chairman Fulco stated that The Green's need to formulate a plan to stabilize the stream bank. Mr. Green said that it would not be a problem that they were anxious to clear the violations. Chairman Fulco stated that MaryRose would meet with them to discuss options and arrange for the Conservation District to help come up with a plan with some details on some suitable plantings, etc to stabilize the brook. The easy part is to remove the lumber and when it is done notify MaryRose and she will inspect the property.

MOTION: Commissioner Connors moved that Cease and Desist order IW-V-10-025: 98 Fresh Meadow Lane be upheld and the violator be ordered to confer with Compliance Officer on a stabilization and planting plan and move the wood pile by 8/18/10. Commissioner Cegan seconded the motion and the motion passed unanimously.

2. Violation IW-V-10-026: 715 New Haven Avenue, Map 68, Block 712, Parcel 73. James and Cathleen Haley; Disturbing the natural and indigenous character of a wetland or watercourse by obstruction of flow in and within 100' of a wetland or watercourse without a permit.

MaryRose stated that this was a violation issued on 6/10/10 to James and Cathleen Haley for disturbing the natural and indigenous character of a wetland or watercourse by obstruction of flow in the Indian River Watershed. There is an intermittent watercourse that comes off a hillside and down through some back yards in the area of New Haven Avenue and Barton Road, the Haley's are located at 715 New Haven Avenue and it runs through some back yards towards their backyard and then into a catch basin under Barton Road and eventually out to Turtle Creek. On a complaint she viewed the site from an adjacent property and noted

that the property owner had installed concrete blocks along their property line which caused an intermittent watercourse and wetland area to back-up on several of the neighboring properties. The photo sheet shows water ponding behind a line of concrete blocks placed along the property line and to some extent ponding behind a fence. If you look at the GIS print the water comes downhill from the Right or East side of the page across the rear yards.

The water is coming down a hill towards Barton Rd and then kind of breaks out. There is a city easement at number 17 Barton Rd with a catch basin in it but the water is not going through the easement it is going through the back yards along New Haven Avenue.

Mr. James Haley of 715 New Haven Avenue said that this work was done 20 years ago and the concrete block only holds back the neighbors grass, etc. from coming onto his property. Cathleen Haley of 715 New Haven Avenue presented photos taken today showing the age of cinderblock. Mr. Haley stated that there is a drainage pipe located there and they have to change the screening every year to keep it from blocking up and it goes through the pipe and into the catch basin by Barton Road. MaryRose stated that she received a complaint in the office and she observed a pond of water along the fence and concrete block when she went out to inspect. Mr. Haley stated that the neighbor piles debris up and interferes with the water drainage. The water goes underneath the holes under the concrete blocks and into the drain pipe which is located under the fence and comes out under his yard and then goes out into the culvert/catch basin at the end of his yard into the street catch basin.

MaryRose asked if he ever flushed out the pipe and he said that he said that he has not done it recently but he plans to do it with the power washer. MaryRose said that the complaint was that the stone and concrete wall was causing the water to back up onto the neighboring property. Mr. Haley said the problem was actually a neighbor dispute and that his son used to cut their grass but when the cost of gas went up he raised the price and it caused problems with the neighbor. It was at this time that the neighbor starting piling up leaves which is stopping the water from getting into the drains. He set his fence back ten feet to avoid problems with the neighbor and then put the cement block up to stop vegetation from getting up against his fence. Commissioner Levitz asked MaryRose if the Haley's moved the cement wall if it would solve the problem. MaryRose said that the neighbor felt that the fence was blocking the water and the neighbors up gradient started complaining also. She said that it drains under the fence and the rear yards there are not mowed because it is too wet. It appears to be an intermittent watercourse as you can see from the photos that the water is channelized and the trees are buttressed up along the back of the rear yards. Chairman Fulco said the problem seems that the water cannot get through the drainage pipe and the pipe needs to be cleaned out and tested to see if it's draining. Mr. Haley stated that the drainage pipe is 4 inches in diameter. Commissioner McNamee stated that she feels that the agency requires additional professional information as to what the impacts are from being an intermittent watercourse to a wetland to determine what the problem is. MaryRose stated that it would require a Soil Scientist to define it. Commissioner McNamee stated that she would like professional data to determine what the problem is. If the wooden fence is now present is there still a need for the concrete blocks?

Commissioner Levitz said that he would prefer to have professional data to assess the complaints. MaryRose said that she checked with engineering and there is an easement and she went out with the Chief Engineer to inspect the easement and the pipe seemed to be clear and running.

MOTION: Commissioner Connors moved that the Cease and Desist Order IW-V-10-026: 715 New Haven Avenue be upheld and the violator be ordered to:

- Hire a Certified Soil Scientist or Professional Wetland Scientist to clarify the drainage on site and the impact of the interruptions of the intermittent watercourse and recommended solutions.
- Have an engineer access the drainage and recommend applicable remedies.
- Submit information by 9/1/10

Commissioner Cegan seconded and the motion passed.

Chairman Fulco directed the Haley's to contact MaryRose and she will advise how to find soil scientists and engineers to do this work.

3. Application IW-A-10-027: 30 Cedar Hill Road, Map 89, Block 836, Parcel 15. Mr. & Mrs. DeForest Smith. Application to subdivide a 5.7 acre residential property with filling and mitigation within 100 ft. of a wetland or watercourse in the Indian River Watershed. (06/16/10||06/30/10||8/20/10)

This item is on the Agenda for the first time this evening and can be discussed after 6/30/10.

E. Old Business

1. Violation IW-V-10-016: 267-279 Brewster Road, Map 80, Block 709, Parcel 16. Estate of Doris Frank; Work within 100' of a wetland or watercourse in the South Central Shoreline Watershed without a permit. Remediation to be completed by October 15, 2010.

MaryRose stated that this was a 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 (6/15/10) with Roger Bernard on behalf of Rose Shaw and Mrs. Franks Estate. Mr. Bernard has removed debris from the edge of the pond, created a 2:1 slope stabilized with chips, installed a silt fence and is planning on loaming and seeding the upland area within the next week or so. At the last meeting the Agency required that the area be stabilized and plantings be installed by 10/15/10 and they appear to be working to satisfy that order. Mr. Bernard understands that he will likely have to water the area when he seeds given the time of year. He said that he would call me once the area had been seeded. Mr. Bernard plans to be done prior to October.

2. Violation IW-V-10-018: 21 Maddox Avenue, Map 27, Block 450, Parcel 12. 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. Information to be submitted by 7/21/2010

MaryRose stated that this was 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. We met Carolyn Foley on site and she 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. She told Ms. Foley that a permit was required to clear or fill in and within 100' of a wetland and that I would be sending her a certified letter notifying her of the violation and she would have to come to a meeting. The green certified mail return cards or the returned letters from the mailings on 5/27/10 and

6/7/10 have not been received in the office. She has not spoken with Mr. or Ms. Foley since I met Ms. Foley on site on 5/18/10.

At the 6/2/10 meeting The Agency moved to require the property owner to have the wetland flagged by a Certified soil scientist or professional wetland scientist to determine the extent of clearing and submit a site plan by a licensed land surveyor or engineer showing the location of wetlands on the site, the extent of work in the wetlands and a planting plan to stabilize the area by 7/21/10.

3. Violation IW-V-10-019: Raton Drive, Map 73, Block 928, Parcel 4F, 4G, 4H and Map 62, Block 928 Parcels 4C, 4D, 4E. 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. Information to be submitted by 7/21/2010.

MaryRose stated that this is a violation issued May 27th to Rod Mc Neil for clear-cutting and removal of vegetation and stockpiling of material within 100' of a wetland or watercourse in the Housatonic River Watershed without a permit. I met with Mr. McNeil on 6/10/10 to discuss the violation. Mr. McNeil is in the process of arranging a site meeting with the person renting his property and said he would submit a letter to the Agency outlining a mitigation plan for stabilization around the detention basin as well as maintenance and stabilization of the swales on the site. She has not received the letter as of this afternoon. At the 6/2/10 meeting the Agency ordered that Mr. McNeil submit a survey and wetland report by 7/21/10. At the meeting he did not feel that he could meet that deadline and was going to propose an alternative his later.

4. Application IW-A-10-020: 100 Red Root Lane, Map 114, Block 905, Parcel 16. Josua 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. (06/02/10||06/16/10||08/06/10)

This is a proposal to construct a new home and then demolish the existing home at 100 Red Root Lane in the Wepawaug River Watershed. Josh Michels of 100 Red Root Lane would like to construct a new home on his existing lot. The new home would be located immediately in front of his existing house. They have proposed detention galleries for the roof drainage which would overflow into a new yard drain structure and then discharge to a wetland on the Eastern edge of the property. Tom Hamilton from Spath-Bjorklund from Monroe is here this evening to answer your questions

Tom Hamilton from Spath-Bjorklund's office in Monroe stated that this was a two acre parcel and there is an existing barn, patio, driveway and house. The northwest corner has an elevation of 110 and the front corner of the lot is at about elevation 84 and up at Red Root Lane which is about elevation 94. There is a little piece of wetland which was flagged by Environmental Services and he didn't find any wetland soils but there is a man made pond that is to the East of Mr. Michels property and goes a little bit onto his property. Right now there is already drainage on the site, the discharge is there and they found existing 8" pipes. The manmade pond has a stone structure around the whole limit of the pond as well as a stone channel existing from where these pipes discharge. There appears that there are some

other pipes that may be going to the pond on the adjoining property. There is not that much of the existing pipes exposed to get the direction. A lot of the catch basins in the area are already silted in and it is very difficult to see where they are going to. There is already a catch basin in the middle of Mr. Michel's property so it's a pretty safe bet that one of the pipes is going into the catch basin. The house is about 50 years old. The site generally drains from west to east.

The new proposal is to construct a 4000 sq. ft house while Mr. Michel's is living in the 1700 sq. foot existing house. The new construction site is located in the front of the existing house so that they can remain in the existing house during construction. It is the best spot to locate the house on the lot there is 150 ft. off-set. There is no filling in the wetlands proposed the only activity adjacent to the wetlands will be the installation of the outlet pipe for the roof drains. There will be some new grading proposed around the outside of the house. There is an existing septic system that is not going to be used but will be tying into the sanitary sewer system. The storm water system is designed so that if a storm exceeds 25 years it will overflow into where the water is currently discharging with no increase in run-off. The existing driveway entrance will be reused.

MaryRose asked if the discharge outlet pipe from the storm drain is going through the stone wall. Mr. Hamilton replied that it is a short wall that lines the pond now and it is where the existing pipes are and it is the intention to replace the existing clay tile pipes but it will be the same area and same way that it is discharging right now. Mr. Hamilton said the water flow will be at least equal to or less than the existing flow.

MaryRose stated that there is silt fence around the property and it would be maintained and stay during the time the existing home is removed until the site is stabilized.

Motion: Commissioner Conners made the following motion:

Mr. Chairman, after duly considering all relevant factors, I move to approve application IW-A-10-020, 100 Red Root Lane based on the plans entitled "*Site Plan 100 Red Root Lane, Milford, Connecticut prepared for Josh Michels*" by Spath-Bjorklund Associates, Inc, 2 sheets dated 5/21/10, sheet 1/1 revised 5/27/10, the information in the file and presented this evening, for the following reasons:

- The applicant provided convincing documentation that no change in the size of the footprint, or the location of the footprint would decrease the impact.
- The existence of the building does not pose long-term adverse impact to the wetlands and the short-term impacts during the construction phase are adequately addressed by the report submitted in addition to the application and the erosion controls as shown on the plans.
- *This action will not have an impact or effect on the physical characteristics of the adjacent wetlands and watercourses.*

With conditions including:

- Standard conditions
- A bond to be calculated must be posted with the MIWA for S&E controls, border plantings, wetland boundary markers and an asbuilt showing finished 2' contours and locating all site structures.

That is my motion.

Commissioner Cegan seconded the motion and it passed unanimously.

5. Application IW-A-10-021: 612 Wheelers Farms Road, Map 104, Block 902, Parcel 2C.
United Illuminating Company. Maintenance of UI easements within 100' of a wetland or watercourse in the Housatonic River Watershed. (06/02/10||06/16/10||08/06/10)

MaryRose stated that this was a proposal by the United Illuminating Co. to maintain access on their existing easements on property located on Wheelers Farms Rd /Wellington Road Extension. On the Map entitled Wellington Road Extension the UI equipment was placed in an area that at the time was to be a driveway/parking area for a building in the corporate park that has not yet been built. Over time the area has grown in. The UI would like to clear brush and install a gravel based drive with a grass surface in the easement to allow access as necessary to maintain their equipment. On the Wheelers Farms Road plan there is a steep grade to access the UI equipment that is adjacent to the Route 15 / Wasson Connector interchange. In this area the proposal is to install a gravel drive at a more reasonable grade and to add gravel to stabilize the area of a dirt drive over a culvert between two wetlands to prevent erosion.

Susan Ganci, Project Manager from The United Illuminating 801 Bridgeport Av Shelton CT passed out maps and photo's of the proposed work areas. Because of the steep grade their trucks are having difficulty getting in to do maintenance work on the Wheelers Farm site. They hired a consulting firm to lessen the grade from 25 degrees to 10 degrees.

Chairman Fulco stated for the record that he is a retired North East Utilities employee of 38 years. In spite of this, he stated that he could be objective.

MaryRose said that it is a reasonable request after having walked the site this winter with Matt Scully of UI. The hill is very steep especially in ice and snow. They are working in a review area only and there is no work in the wetland proper. The Wetland is on the Wheelers Farms Road piece that they are proposing to re grade and stone the access road. Currently there is a wetland with an 18 inch concrete pipe connecting to a stream. The wetland is right at the level of Route 15 and then it falls off as you go towards the connector on the Wellington Road extension side. They are going to use erosion controls on the edge of that and match the grades they need to go just to the edge over the concrete pipe in order to fit their trucks in because their trucks back up to each other and raise their buckets.

Commissioner Levitz asked how close to the wetland they would be. MaryRose said that on the Wheelers Farms site they will be within feet. Commissioner Levitz asked what kind of erosion control will be there. MaryRose stated that it is silt fence but it could be backed it up with stone or hay bales in that area. Commissioner Levitz said that he would like to see stronger erosion controls and more protection over there. MaryRose stated that their plans do call out for the best management practices.

Motion: Commissioner Connors made the following motion:

Mr. Chairman, after duly considering all relevant factors, I move to approve application IW-A-10-021: 612 Wheelers Farms Road based on the plans entitled "*Site Plan prepared for The United Illuminating Co., Wheelers Farms Road, Milford, Connecticut*" by CCA 2 sheet, sheet 1 of 1 dated 3/8/10, and Sedimentation and Erosion Control Plan dated 12/7/2005 and "*Site Plan prepared for The United Illuminating Co., Wellington Road Extension, Milford, Connecticut*" by CCA 2 sheet, sheet 1 of 1 dated 3/8/10, and Sedimentation and Erosion

Control Plan dated 12/7/2005, the information in the file and presented this evening, for the following reasons:

- The applicant provided convincing documentation that no change in the size of the footprint, or the location of the footprint would decrease the impact.
- The existence of the access easement does not pose long-term adverse impact to the wetlands and the short-term impacts during the construction phase are adequately addressed by the report submitted in addition to the application and the erosion controls as shown on the plans.

This action will not have an impact or effect on the physical characteristics of the adjacent wetlands and watercourses.

With conditions including:

- 2nd line erosion controls adjacent to the wetlands on wheelers farms road
- A bond to be calculated must be posted with the MIWA for S & E controls, border plantings, wetland boundary markers and an asbuilt showing finished 2 ft. contours and locating all site structures.

Commissioner Cegan seconded the motion and it carried unanimously.

F. Consideration of minutes of previous meetings. (6/02/10)

Commissioner McNamee asked for a correction on Page 5 section I – she would like to change the minutes to read “the type of procedural questions that need to be listed in the letter in light of the new reality for the Agency.” Instead of 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. MaryRose stated that that section of the tape would be taken verbatim from the previous meeting minutes and will be available for the next meeting.

G. Subcommittee Reports

Commissioner McNamee reported that the Proposed Bylaws and Regulations subcommittee met on June 16 at 6:15 and made good progress and are in recess until and will meet again on 7/7/10 at 6:15.

H. Staff Report

MaryRose stated that in their mail this evening is a draft of the letter you requested regarding the recent changes in the office. Kathy Kuchta informed the Commissioners that she received a promotion to ZEO and would begin training in the mornings in the Planning and Zoning Office on June 22nd. In the afternoons she will train Linda Mossorofo from Planning and Zoning in the Wetlands Office. MaryRose stated as of 7/6/10 Kathy will be in P&Z full time and was told that she could bring ‘things to be typed’ to the DPLU seasonal temporary clerk and assumes that Linda from P&Z will act as clerk since she will be learning our systems. She explained to the DPLU Director that since these Clerks are not trained as Wetland Clerks or for Wetland duties and that Kathy will no longer be working for the IWA that they will not be able to stamp off on wetland reviews and he agreed. How the phones will be answered and how the work will be done has not been clarified. MaryRose said that the Commissioners can review the draft letter if they still want to proceed but does not feel that it will change the outcome. The Commissioner’s discussed changes that they thought might enhance the letter and make a better presentation. It needs to be more specific with loss versus consequences. MaryRose stated that if the Commissioners would like to mark up the letter with changes that she would make the changes but that right now during the busiest time of the year and with the loss of staff that she may not have the time to address all the changes to the letter.

MaryRose stated that business is picking up in the office which typical for this time of year sheds, decks, pools and small additions. The West Avenue Sewer is still on hold. The Buckingham Avenue sewer project is progressing. We have received the asbuilt for Chase Bank and the Marion Avenue site is almost completed.

Please remember to call or email MaryRose if you are unable to attend a meeting.

Commissioner Connors made a motion to adjourn moved to Commissioner McNamee seconded and the motion carried. The meeting adjourned at 9:30 p.m.

The next meeting is July 7th in this room.

Respectfully Submitted,

Kathleen Kuchta

These meetings have not been accepted or approved.