

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on June 19, 2013.

**A. Roll Call**

Present: Allen Cegan, Ken Cowden, Jim Connors, Carol Dunn, Richard Lutz, Brendan Magnan, Justin Margeson and Steve Munson.

Absent: Cathy Collins and Lily Flannigan.

Also Present: MaryRose Palumbo and Lisa Streit.

Cegan called the meeting to order at 7:30 p.m. and deemed Dunn and Magnan the voting alternates.

**B. Pledge**

All stood for the Pledge of Allegiance.

Cegan called for a moment of silence for Vice-Chairman D. Jon Higgins.

**C. Public Hearing**

1. **IW-A-13-014: 121 West Main Street, 121 West Main Street Associates, LLC** – redevelopment to construct two multi-family residential buildings with parking, grading and stormwater improvements in and within 150' of a wetland in the Wepawaug River Watershed.

MaryRose reported that the file contents list for this application is in the file and available in the MIWA office. Also, that the applicant submitted a letter this afternoon requesting a postponement until July 17<sup>th</sup>.

A motion was made by Connors, seconded by Cowden that this hearing be continued until July 17<sup>th</sup>. The motion carried unanimously.

**D. Public Comments**

None.

**E. Old Business**

1. **IW-V-11-023: Westmoor Road, Field & Son Builders, LLC** – clearing in and within 100' of a wetland or watercourse in the South Central Shoreline Watershed without a permit. Mitigation ongoing.

MaryRose reported that the mitigation report will be submitted by the end of June.

2. **IW-V-11-049: 945 North Street, Barretta Realty Associates, LLC** – storage of wood, material and debris within 150' of a wetland or watercourse in the Wepawaug River Watershed without a permit.

MaryRose reported that Mr. Barretta proposes to have the site ready for inspection by the end of the month.

3. **IW-V-12-079: 161 Southworth Street, Eric Green, Jr.** – dumping of material and debris without a permit within 150' of a wetland or watercourse in the Wepawaug River Watershed.

MaryRose reported that this is the violation for filling in and within 150' of a wetland at 161 Southworth Street. At the last meeting the Agency asked that the Applicant submit the following by 6/19/13 for review of the proposed mitigation:

- proposed mitigation plantings.
- the dimensions of the proposed berm.
- number of trees to be removed.
- a specific timeframe for completion of the mitigation.

A letter was received from Attorney Lynch which was in your mail this evening stating that the Greens agree to:

- Remove the woodchips and create an approximately 2.5 X 5' berm along the lines established by Roman Mrozinski of the SWCD.
- Seed and plant wetland vegetation at our direction
- Remove the 5-6 fallen trees in the wetland area

They expect to complete this work within the next 60 days.

She had recommended a shady tolerant wetland mix be spread over the disturbed area. There had been discussion at an earlier meeting about blue berry bushes or plantings. She asked what the Agency's preference was as the Greens are looking for guidance in this area.

Cowden proposed blue berry and clethera – that has a choice of white or ruby spice proposed at the bottom of the berm. This could grow to 4' – 6' and a screening should be seen over the years. He recommended blueberries purchased bound and burlap 24-30" and clethera in 3 gallon containers. Planted 5' on center would make a seamless boarder over time. Magnan stated that it should be marked with wetland boundary markers. Lutz stated that there had been a concern with woodchip piles and fire hazards. Munson stated that he had brought this up based on an article where there were very large piles and this proposed berm does not seem to compare in size and he does not feel that spontaneous combustion is a concern here.

Connors moved that cease and desist IW-V-12-079: 161 Southworth Street be modified to require the following items be completed and inspected by 8/19/13,

based on the letter from Attorney Tom Lynch to Chairman Collins dated 6/17/13, and the information presented this evening:

- Shady wetland seed mixture and plantings 5' on center to be calculated (# of plantings) 24-30" (size of plantings) mitigation plantings per the above letter.
- The berm will be up to 2.5' feet in height.
- The wood chip removal will be completed by 8/18/13.
- The mitigation seed mixture and plantings will be installed by 11/1/13.
- The plantings will be monitored twice a year by a wetlands professional for a period of 3 years with reports to the MIWA. If the plantings do not survive during the monitoring period they must be replaced with like size plantings.
- 4 Wetland boundary markers to be placed on site to be reviewed by the IWA Designated Agent by 8/18/13

The motion was seconded by Munson and carried unanimously.

4. **IW-A-13-003: 211 West River Street, Sydney M. Patchen** – placement of fill to raise a portion of the existing lawn area to the elevation of the residence and remove dying trees with work within 100' of a wetland or watercourse in the Wepawaug River Watershed.

MaryRose reported that this is an application to allow fill and a wall to remain on property at 211 West River St. The Agency had requested a third party review of the proposal by an engineer. We do not have a Third Party Engineer to review the application at this time. Our extension for reviewing this application expires this evening. At this time she recommended that the IWA deny the application without prejudice as incomplete.

We will not have another regular meeting prior to the review period for this application expiring. It would be possible for the applicant to grant another 25 days which would bring us to Sunday, July 14<sup>th</sup>, 3 days before our next regularly scheduled meeting. Given the busy season, she does not believe that there will be enough time to send out the application to find a third party engineer, accept that engineer, have them review and comment on the application and give the Applicant and their Consultant sufficient time to comment on the review.

Munson asked Mr. Patchen for comment. Patchen agreed that it may not get done in a timely manner and as a magistrate he has run into a number of conflicts. So he has talked about what needs to be done and he will repackage the entire application and resubmit.

The following motion was made by Connors and seconded by Munson:  
After duly considering all relevant factors, I move to deny application IW-A-13-003: 211 West River Street without prejudice as incomplete based on the plans entitled "*Topographic Survey prepared for "Sydney M. Patchen, 211 West River Street, Milford Connecticut"*" by Richard W. Plain Land Surveyors, 1 sheet dated 8/21/12, the information in the file and presented this evening.

The motion carried unanimously.

5. **IW-V-13-022: 37 Lakeside Road, Brad Frederick & Britnei Artz** – clear cutting trees and stockpiling material without a permit within 100' of a wetland and watercourse in the South Central Shoreline Watershed.

MaryRose reported that this is a violation issued for clear cutting of trees within 100' of wetlands in the South Central Shoreline Watershed on private and City property without a permit. At the last meeting the Agency suggested the Fredericks contact the South West Conservation District for assistance and modified the order to require information to be submitted by 8/21/13.

No action taken.

6. **IW-A-13-024: 553 West Avenue, Grillo Services, LLC** – proposal for a facility for leaf composting, tree and brush recycling, processing of topsoil, sale of landscaping products and 4 buildings with roads, parking, grading and stormwater improvements in and within 150' of a wetland in the Beaver Brook Watershed.

MaryRose reported that this is a proposal by Grillo Services for a facility for leaf composting, tree and brush recycling, processing of topsoil, sale of landscaping products and 4 buildings with roads, parking, grading and stormwater improvements in and within 150' of a wetland in the Beaver Brook Watershed. The Public Hearing for this application is scheduled for next Wednesday, June 26<sup>th</sup> in Conference Room 'C'. Please let her know if there is any additional information you would like from the applicant prior to the public hearing. The applicant has stated that they will be submitting revised maps and information we have already requested. It is expected that this material will be in your mail packet for next weeks meeting. She asked if there was any additional information the IWA would like to see or any additional questions for the applicant. She needs to schedule a site walk with Commissioners Connors and Cegan prior to next weeks public hearing.

MaryRose addressed exparte communication stating that researching an application is exparte communication and is not allowed and is cause for recusing oneself from discussion of an application. All information needs to come from the applicant. Dunn reviewed a Google file on BeaverBrook, Milford, CT and Natural Resource Inventory of Milford Open Space Committee stating that conservation restriction protects 41 acres and asked if this was still applicable. MaryRose stated that this information was brought by Steve Johnson and she discussed this with the City Attorney. The applicant has revised plans based on this. MaryRose will distribute this information to all board members.

Lutz asked if it was the IWA intent to have an IWA expert on this application and that without an IWA expert we are bound to believe whatever the

applicants' experts say and he does not believe the public would like that. MaryRose stated that this has not been requested and that it would need to be before the Public Hearing so that all information can be presented. Munson stated that there would have to be direction given for an expert to look at. Magnan questioned if the IWA always has to have a counter expert. Lutz stated that from the legal session of training the CT Bar Association suggested that the IWA should always get an expert whenever an applicant has an expert as it doesn't look to the public like due diligence has been done if not.

Cegan stated that one can be obtained if one is needed. Lutz stated that the boarder around the wetlands; one side is to be removed and he asked where the run off from the composting is going to go; he is concerned with chemicals going into the wetlands. MaryRose showed the settling basin and swale on the plans is for that. Lutz stated that partially filling of the pond is proposed and there was wildlife seen on site. MaryRose stated that a Herpetologist report is coming tomorrow. Lutz stated that composting facilities are favored by environmentalists but we have to be careful of runoff and he would like an expert to look at it. Magnan asked if moving material around the site would have an adverse impact. MaryRose stated that the applicant has to provide information for the expert to review. Lutz stated that the application is greatly reducing the buffer in an area and he would like to know what effect this will have on the wetland and what steps are being taken to accommodate this. There are 3 areas of development and each has its own driveway then there is another road internally for access. It was stated at the meeting that there are two separate businesses without the internal road the pond would not have to be filled in and he asked if eliminating this road would be detrimental to the business. MaryRose stated that the applicant discussed the 150' bridge to span the wetlands for fire access. Munson stated that part of the IWA purview is to not make requirements economically burdensome. MaryRose stated that she feels it is prudent to hear the presentation before seeking experts since the hearing is next week and then there will be some direction for an expert. Cowden stated that if more information/reports are to be received within the week, some issues may be addressed and it makes sense to wait until all information is received.

7. **IW-A-13-025: 181 Grinnell Street, Vincent Rondinelli** – installation of trap rock and a 6" PVC pipe for drainage improvements with work in and within 100' of a wetland in the Beaver Brook Watershed.

MaryRose reported that this is an after the fact application for the installation of trap rock and a 6" PVC drainage pipe at the rear of Mr. Rondinelli's property at 181 Grinnell Street. At our last meeting the Agency requested that the City's files be reviewed with the City Engineer for any easements and for the necessity of the drainage in the roadway. The City Engineer was away last week at class we hope to visit this site later this week or next week. She recommended no action at this time.

**F. Minutes**

A motion was made by Connors, seconded by Margeson to accept the minutes of 6/1/13 and 6/5/13 as presented. The motion carried unanimously.

**G. Staff Report**

- Brendan, Lily, Barbara and MaryRose attended the DEEP IWA Commissioner continuing education session last week. She made copies of the information and it was in everyone's mail this evening. Magnan stated that the concept of likelihood of impact was underlined at the training. Lutz stated that courts now say that due to the technical nature, layman cannot make the call, so that's why we must get our own experts. If you want to show due diligence you have to hire your own expert. MaryRose stated that most experts would not jeopardize their profession for one project and every expert can not be challenged. Every expert should be questioned to get answers and make an informed decision.
- Grove St Pump station and sewer projects is ongoing.
- Indian River Interceptor is out for bid and may start in late August or early September.
- Sanitary Sewer Infill's No. 1 is ongoing they will be moving to Seabreeze Ave within the next 2 weeks.
- 134 Old Gate Lane – is ongoing the bioremediation area is in and seems to be functioning well. They will be reseeded the rear of the site soon to help stabilize the soil.
- Cascade Blvd- Garden homes is ongoing.
- The City has a new Department of permitting and Land Use Director. Joe Griffith asked MaryRose to apologize for not being able to attend this evening. He plans on attending a future meeting to introduce himself to the Agency.
- Just a reminder to please remember to call or email if you are unable to attend a meeting, especially site walks and public hearings.
- The next meeting will be a special meeting and Public Hearing next Wednesday, June 26<sup>th</sup> in Conference Room C. The next regular meeting is 7/17/13.

**H. Chairman's Report**

None.

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.