

Minutes of the regular meeting of the Inland Wetlands Agency of September 19, 2007.

A. Roll Call

Present: Barbara Bell, Allan Cegan, Jim Connors, Scott Koschwitz, Lynne McNamee, Steve Munson, Bob Nunno and Phil Fulco.

Absent: Ken Cowden, Joel Levitz and Jack O'Connell.

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

B. Public Comments

None.

C. New Business

1. **Application IW-A-0-030: 767 Bridgeport Avenue, Stephen Courtney** – proposed construction of a parking lot with paving and grading 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 discussed at the next regular meeting.

2. **Pre-Application IW-PA-07-034: 700 Naugatuck Ave, Shaw Environmental Inc.** – removal of an above ground storage tank and an area of subsoil for remediation within 100' of a wetland or watercourse in the Housatonic River Watershed.

MaryRose reported that this is a proposal to remove an existing 120,000-gallon above ground storage tank that was used to store fuel oil in the past. Shaw Environmental is proposing to remove the tank and its retaining wall as well as surrounding superficial soils as necessary. They are proposing to use soil erosion and sedimentation controls and best management practices to protect the wetlands associated with the Housatonic River.

Fulco explained that he worked at this plant as Supervisor of Operations in the past and that he feels he can act in an objective manner and asked if anyone had any objections. There were none. He further stated that the company is environmentally responsible and sees no problem with the pre-application.

MaryRose stated that this is a straight forward project; they want to remove a tank and the alternative is to leave it in place. Bell asked if the applicant was to be present. MaryRose stated that she thought they would be present but she did not expect such a complete package to be submitted either.

After some discussion the following motion was made by Connors, seconded by Nunno:

to have the Designated Agent issue a Jurisdictional Ruling for pre-application IW-PA-07-034: 700 Naugatuck Av for the removal of a 120,000 gallon above ground storage tank as described in the report entitled "*Pre-application Form Inland*

Wetlands and Watercourses Agency Aboveground Storage Tank Removal, Devon Power, LLC, Milford, New Haven County, Connecticut“ by Shaw Environmental Inc. dated September 2007 and the information in the file and presented this evening with conditions including:

- Proper soil erosion and sedimentation controls must be installed and maintained while the site is disturbed
- A bond of \$3,100 must be posted with the MIWA for S&E controls and an asbuilt showing finished 2' contours and locating all site structures.

This action will not have a negative impact or effect on the physical characteristics of the adjacent wetlands and watercourses. That is my motion. The motion carried unanimously.

D. Old Business

1. **Violation IW-V-07-017: 55 Peck Street, Mark & Sylvia Scheets** – clearing and dumping debris within 150' of a wetland or watercourse in the Wepawaug River Watershed without a permit.

This item has been tabled until the fall. No action taken.

2. **IW-A-07-015: Market Place, Jeff Arotsky** – proposed construction of a single family residence and driveway with construction and grading within 100' of a wetland or watercourse in the South Central Shoreline Watershed. MaryRose reported that this is a proposal for a single-family home to be constructed within 10' of a wetland with a proposed deck within 7' of a wetland in the South Central Shoreline Watershed. The applicant has had the property flagged and she suggested that the Agency hold a site visit to view the proposed house location and the limits of disturbance in relation to the wetland. Attorney Tom Lynch and Gary Wassmer of CCG were in attendance to present the project. Tom Lynch – 63 Cherry Street – stated that this is basically a reactivation of an application from 2002. The Agency denied the application and he represented the applicant on appeal. Judge Curran overturned the MIWA denial. The matter lay in limbo from 2003 until now. Judge Curran did not overturn the Agency decision and grant the permit – He remanded it back to the Agency for further proceedings, he stated that the Agency did not counter the engineering opinion of CCG. They will present that testimony at the Public Hearing he anticipates the Agency may want to hold. There was an application in the spring but there was a problem with getting the property flagged. It is flagged now.

Commissioner Munson asked if he heard correctly it was remanded back to the Agency because we did not have an expert in engineering.

Tom Lynch stated that the decision was overturned because the Agency did not have expert testimony to counter the applicant's expert.

Munson asked if it would be helpful to get the info from the previous file. Fulco stated that there isn't an expert opinion from our Agency in the file and that is why it was overturned – there was no expert.

Lynch stated that Ron Wassmer's conclusion was that the alternative would have no negative impact on the wetlands. The Court's conclusion was that since there was no contrary evidence he overturned the decision.

Munson asked if the agency should get an expert to review this. Fulco stated that the IWA has a track record of hiring an expert when as an Agency it was felt it was necessary. The Judges decision opened the door to hire an expert.

Munson asked in order to expedite it has there been any outside interest by the Public. Fulco stated that there has been no filling, no petition. Connors suggested a site walk and then review it.

Bell agreed with main thrust of conversation but questioned the alternate with wetland disturbance and asked if this is the same alternate. Lynch stated that they could build a larger house but consider this proposal a more prudent and feasible alternative. Two other houses have been built on the same side of the street since the 2002 application. Bell stated that there should be a formulation of an alternative with less impact – not just an alternative with filling. Proposal to fill and create could be seen as less impact due to net creation of wetlands.

Wassmer stated that it is the same alternatives as the 2002 application. The original Plan was a larger house that required filling in the wetlands. Then it was scaled back to a smaller house to avoid filling and a split rail fencing to avoid impacts.

McNamee stated that since the applicant has made numerous references to the Legal judgment she would like it to be made available for the Commissioners

MaryRose stated that the Legal opinion is in the original file. She also informed the Agency that there had been several inquiries about the parcel from neighbors and people interested in the foreclosure on the property.

Bell stated that she would like to understand where other houses Attorney Lynch pointed out are located. MaryRose explained that the Agency must look at each application on it's own merits, that other lots may have different amounts of wetlands. One house was just finished adjacent to the applicants' lot in 2002 and one lot across the street from that house was under construction when this application was before the IWA in 2002.

A motion was made by Connors, seconded by Nunno that a site walk be scheduled for application IW-A-07-015: Market Place, on Friday, September 28, 2007 at 4:30 PM. The motion carried unanimously.

Fulco instructed MaryRose to hire the IWA's own expert. Koschwitz suggested keeping the two applications as separate as possible. Fulco stated that the previous application is not important only the current application.

E. Minutes

A motion was made by Connors, seconded by Nunno to accept the minutes of the 9/5/07 meeting as presented and carried unanimously.

F. Subcommittee Reports

None.

G. Staff Report

- MaryRose reported that the next meeting is October 3, if anyone is not going to be available for the meeting please call or email to let the office know.
- The dates for DEP Segment III were distributed. This year they have two different course offerings. One on Environmental Management and Wetland Mitigation and the other is on Vernal Pool Ecology and Monitoring. Please let the office know if you would like to sign up: The CACIWC flyer was also in your mail this evening. It will be held November 10th at Mountainside in Wallingford. Please let the office know if you would like to attend.
- Project status
 - 122 Cherry St – Sidewalk surveyed at 5' – plantings in, site stabilized.
 - Milford Crossing – under construction.
 - Milford Market Place – under construction site paved.
 - Milford Point Road – Good Shepard Daycare - under construction.
 - Milford Power Housatonic Water Supply – under construction.
 - Milford Sewer Project - completed awaiting asbuilt and final inspection
 - Milford Sewer Project – Housatonic Plant Upgrades under construction
 - Milford Sewer Project – Beaver Brook Plant Upgrades under construction
 - Milford Sewer Project – Infills – Bridgeport Ave – under construction
 - West Ave Condos – under construction.
 - YMCA mitigation work complete awaiting plaques and final inspection.
- MaryRose reported that she and the Chairman met with Ray Macaluso of Westcott and Mapes representing the Sewer Commission to discuss the East West Interceptor in West Avenue. The new sewer line is going to be in West Ave across the street from the Beaver Brook Trail. All materials and dewatering will be away from the wetland area. It was determined that a Jurisdictional Ruling was appropriate for that application.

H. Chairman's Report

None.

The next regular meeting will be on 10/3/07. There will be a site walk on 9/28/07 at Market Place.

There being no further business to discuss, the meeting adjourned at 8:20 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.

