

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on July 01, 2015.

A. Roll Call

Present: Cathy Collins, Jim Connors, Ken Cowden, Dave DeFlumeri, Carol Dunn, Brendan Magnan, Justin Margeson, Steve Munson and Daniel Schopick.

Absent: Allan Cegan and Lily Flannigan.

Also Present: MaryRose Palumbo and Lisa Streit.

Collins called the meeting to order at 7:30 p.m. and deemed Dunn and Schopick the voting alternates and Schopick Acting Parliamentarian.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Hearing

Collins reviewed the following:

- This is a public hearing, it is a formal proceeding, please respect the process by only speaking when you are called upon and giving your name and address for the record when you speak, spelling as necessary for the Recording Secretary. If you must talk to each other during the meeting please be courteous and go outside in the hallway so as not to disturb the other members of the public and the Agency who would like to hear the presentation.
- Explanation of the Rules: (applicants will present their proposal, when they are finished the public may speak for and then against the application. The applicant will then rebut /answer the questions *after* all members of the public that wish to speak have spoken (there is no give and take between the applicant and the consultants). The public that has already spoken may then speak again to the issues that were covered. Then the public portion of the meeting will be over and the Agency will ask their questions of the applicant.
- Please speak only to items in the jurisdiction of the MIWA - wetlands, watercourses, and wetland habitat. Zoning Issues are not under our review.
- It was noted that the file contents list is in the file and available in the MIWA office.

1. **IW-A-15-005: 0 Wheeler's Farm Road, Wheeler's Woods, LLC** – proposed 180 unit apartment complex with work within 100' and 150' of wetlands and watercourses in the Housatonic River and Wepawaug River Watersheds.

Attorney Tim Hollister stated that he hopes to close the Public Hearing tonight and feels that they have addressed all concerns; revised plans dated 6/25/15, revised Engineering report dated 6/25/15 and the letter from Dr. Klemens. He proceeded to review the file and proposed conditions:

- The baseline condition of the property is tab 2A of the report.
- The plan to control invasive plant species.
- The conservation easement; limits and the applicants responsibility.
- The area at East Rutland Road; automotive clean up.
- The limit of mature forest and 100' buffer from such.
- Automotive debris area; Phase I Environmental Report, no formal remediation required.

John Gilmore, PE, reviewed the original site development plan and the 100' buffer area from the mature forest as well as the modification that moves building #4 and the clubhouse and pulls the roadway back. There will be the same number of units while respecting the buffer as recommended by Dr. Klemens. The sanitary sewer line has been moved as well per Dr. Klemens recommendation. The storm water run off; the town requires mitigation. The water will be stored and slowly metered out at a slower rate. Infiltration into the soil deals with the volume of runoff. Cornell numbers were used, which are higher than what is required.

William Root, Soil Scientist, stated that he identified the mature forested line by using aerials as well as on site with a hand held GPS unit. The border was reviewed on the plans. It runs along the sewer line which is used as an offset to the 100' buffer. He then addressed the invasive species; they will be monitored and controlled with the goal to prevent the invasives to act as a seed source and contaminate the area. They will remove material based on established protocol and rapidly replant the area and then follow a three year monitoring program.

Michael Klein, Biologist and Soil Scientist, reviewed the base line environmental conditions report. IRS guidelines were used. He identified the conservation values and non natural conditions. He reviewed a series of location maps; a 1934 soils map shows permanent photo stations established to show a history of conditions and standards of monitoring.

Dr. Klemens commented regarding the concern of runoff and questioned that the Cornell Standard is a higher performance standard. Gilmore confirmed that it is.

A five minute recess was taken to allow the public to view the plans.

MaryRose noted that she has received the City Engineer's report stating that the plan meets or are better than city standards.

Collins called for those **IN FAVOR** of the plan:

None.

Collins called for those **AGAINST** the plan:

June O'Connell, 102 East Rutland Road, stated that she has emailed her comments to MaryRose. She stated that per Rogers Chevron this site was their salvage yard in the 1950's, 1960's and 1970's. She further stated that there is likely a lot of contamination in the soils. Drums were found on site and never tested. A Phase I report was done and she feels that much more soil testing should be done. She stated that the office complex only built one building due to contaminated soils. She believes the hand dug pond was contaminated and a lot of oil was found in the ponds. She requests that more soil tests be done and this could contaminate our watershed and wetlands. **She submitted a letter from Lori Cleary, 99 East Rutland Road**, stating that her back yard is flooded and the basement gets wet. She is on a well and septic system. The soil can be contaminated due to the auto storage and when disturbed this can leach into the wells and septic systems and if it does the City of Milford will be sued.

Michael O'Connell, 102 East Rutland Road, stated that he has lived in the area for 30 years and this site was an auto salvage site for many years. Bill Elliot who lives adjacent to this site brought this up before Planning & Zoning that there were 100 cars on site at any given time and this site needs more than a Phase I, which is a walk of the property and paperwork. The prior job filed bankruptcy. He asked if the IWA walked the site on a rainy day and suggested they walk it on a rainy day. This project will effect the wetlands, water will seep, cars leak oil, cars will be washed and all of this will go into the storm drains. This can not be ignored. Please deny this application or at least require more testing.

Gayle Slossberg, stated that she is concerned with the process; some buildings have been moved and stayed away from the review area and now they are moved into the 100' review area and this has not been seen until today. The IWA is supposed to review within the 100' review area and asked that the public have the opportunity to review this. Buildings have been moved from a significant area to a less significant area and the area is still significant. Please give the opportunity to review the entire area. Please don't act tonight and if so, deny.

Pat Kelly, 329 Wheelers Farm Road, submitted a picture of her property flooding; storm drains are overwhelmed now. 337 Wheelers Farm Road also floods and takes out her driveway. She stated that she prepared a book of the area and it was not ready for this evening. The wild life is declining and something about the environment is causing this. Butterflies disappeared as

well as bumble bees due to round up being used. Bats, crows, fox, turtles and salamanders are being lost. Sounds of a wetland are like no other as well as a light show from the fireflies and this is worth preserving. There are no bats anymore and that used to control the mosquitoes. She is concerned with the negative effect to the ecosystem. She submitted a CD.

Nimit Upadhyaya, 75 Oak Ridge Lane, stated that he is from New Jersey and just bought his home last year. His job is in Cheshire. The reason he picked Milford was the wetlands; he has a 4 year old and his wife is pregnant. In New Jersey they had a well and construction caused vitiligo where he lost pigmentation. He is better now with medication. Key elements are that you have to remove something to build something and you can never get back once removed. Milford will lose residents; consider the future and the legacy and vote no on this project.

Wally Hauck, 39 Lookout Hill Road, stated that there is no one here supporting this project. This is nothing but risk; no value or benefit. When the project goes south, who do we call? Please put us as a priority and please say no.

Danielle Burns, 29 East Rutland Road, has concerns about the eastern box turtle; they are not aquatic animals which is why they are endangered. If you move them after age 3 they will die. She will submit an article from the Shorelines Times 'Done Deal for Protection' regarding a property fight for 15 years. She stated that we could do the same thing and form an ad hoc committee. She stated that she knows that the abutting properties did not receive letters of notification and further asked if the Police Department denied this then why is it before this commission.

Ruth Telep, 41 East Rutland Road, stated that she never received a letter other than the first Zoning letter. She asked if the access road is to be locked, who will be monitoring this. She asked what the Cornell standard is. She stated that Texas gets 100 year storms every other day. Visitor parking will mean more cars. The brook runs on her property and is not mentioned. Pictures were submitted from May 2015; 4' from the barn. Also the culvert under the road goes to Wheelers Farm Road and is old and will not take the runoff. There are flash flood warnings, how does the Cornell standard compare. Please deny this application and not let Milford be turned into New Jersey.

Ruth Krasenics, 86 East Rutland Road, asked if an archeological study has been done and that the Indians owned this land until 1639. Up until 2014, UCONN students came here for archeological field trips. She contacted UCONN but the office is closed for vacation. She stated that the Lexington Green project required an Archeological study. The neighbors' father gave him arrow heads from this site. Please deny this application.

Mike Bohan, 103 Middle Street, West Haven, stated that during the last 2 hurricanes 3rd Avenue Extension in West Haven became a running stream. If you have a hurricane, it will be flooded; children will be dragged into a running stream. If you build anything on a wetland you will be endangering children.

Rollo Frank, 44 Lexington Way, stated that he has a sink hole in front of his house and it has been fixed twice. The only source of water is this wetland. He asked if blasting will make it worse. The repair of the street has to be paid for through the Association. His neighbor Carl has a 4' hole. Pam Staneski has been out and recommended DEEP. This is a several month process. He doesn't want to worry about new roads collapsing.

REBUTTAL

Attorney Hollister stated that plan changes were submitted on June 3rd and to Planning and Zoning on 6/16/15. The Auto Salvage yard was 40 years ago and is noted in the Phase I report. This was highly disturbed in the 1980's or 1990's with a history of disturbance. A Phase I study is done by a Licensed Environmental Professional. They are proposing to clean up the debris and have an 11 acre conservation easement proposed; not required. This is an improvement. This is not a wildlife sanctuary. It is a highly disturbed commercial property that abuts the highway and office buildings.

John Gilmore, the Cornell is rainfall precipitation tables and is much more conservative (23% more) than what is required. East Rutland Road lacks proper drainage; they can try to improve this but will not fix the problem. The project will not exasperate the problem. Regarding the sink hole issue; he went out and saw the private roads, he does not know how they were built. Compaction problems take years, a bridging effect. There could be trees buried on site, there could be sewer leaks. This site is not hydrologically connected to that site.

Collins stated that the IWA has been working on this application since January; it is not last minute. The IWA hired a Third Party expert. This is the third round; this is not taken lightly. The IWA has worked hard on this project since January and guidelines have to be followed and due diligence has been done.

Michael O'Connell, thanked the IWA for their time but asked that they please listen. There has been no deep soil testing and it can not be ignored that this was a salvage yard. This is infecting the wetlands and can't be seen.

Ruth Telep, she is still concerned about the Cornell standard and asked what is being talked about in inches.

Rocco Frank, stated that current conditions are not presented and he is concerned with blasting. He asked that the IWA make up their own minds and use their right to vote.

Gayle Slossberg, thanked the board for their work and listening. The third set of plans were received on Friday and the public has not had adequate time to review this. People need time to review. She agrees that the salvage yard was 30 years ago but asked that a soil test be done. There are turtles now, the land has regenerated and is better now. Frogs and turtles wouldn't be here if it was highly disturbed. A Phase I study is done by a licensed professional but people disagree and have different opinions. She referenced appraisals and stated that it does matter who pays for them. The notice issue is pretty significant and has not been addressed. The 100' review area now that the buildings are moved has not been addressed. The applicant stated that this is a "highly disturbed commercially zoned" area which shows lack of concern for the environmental value of the property and she is not comfortable with that.

June O'Connell, stated that the Planning & Zoning office (Phyllis) stated that today at 12:45 p.m. that the plan was just brought in and didn't have a chance to look at it yet.

A five minute recess was taken.

Collins read Dr. Klemens letter dated 6/28/15. MaryRose stated that Dr. Klemens was hired by the IWA at the expense of the applicant. Dr. Klemens worked on the site since April and made recommendations that were implemented on 6/3/15.

Dr. Klemens stated that he looks very carefully at the 100' regulated area for impacts. It is not a prohibition. It is his judgment that the benefits from moving away from the significant wetlands outweighs the intrusion into the other, which is man made. The functional vernal pool is a balance of protection/enhancement verses completely artificial (10 years old) and the scientific choice is clear that you protect the functional pool. Vernal Pool 2 functions as a decoy pool, causing dying off of the wood frog. These regulated areas are not equal that is why you have a wetlands agency. That is why in this case he recommended protection of the functional vernal pool. Speaking to the Eastern Box Turtle, the youngest Eastern Box Turtle is 15 the oldest are more then 50 years old. He sees no reason not to believe that that the older turtles have been on site for that period. It is a remnant population. Eastern Box Turtles live over 100 years and need a long term view when studying them. This design is protecting the major ecological values. He feels that the conservation easement is very valuable. To Michael Klein there is not additional benefit from taxes when donating as part of approval. The sewer line has been relocated. The forest line makes sense and this was reviewed. Snow piling in the conservation easement is not the intent and he

would like it eliminated; this is not desirable. Everything else has been addressed. Schopick asked Dr. Klemens if any change or reduction in development would enhance the wetlands. Dr. Klemens stated that there are two basic areas; natural/undisturbed and disturbed. Building on a very disturbed footprint has no ecological or wetland justification for reduction.

Collins asked about the Phase I Study and deep soil testing. Attorney Hollister stated that there is a file review; aerial photos, any deed requirements then a high intensity reconnaissance of the site. They look at debris and no sub surface soil contamination was found. Gilmore stated that the report speaks for itself. There was an auto salvage in the 1950's, 1960's, 1970's and 1980's. Soil has been removed from the site for building. Mr. Root and Mr. Klein did soil testing and deep boring for Engineering.

Dr. Klemens asked how would contamination be detected though these tests. Gilmore stated through odor, petroleum by smell and sheen on water and would have to be reported. Bill Root stated that he never saw a petroleum based sheen in the 3 years he has been on the site.

Collins asked about keeping residents from entering the conservation areas. Atty. Hollister stated that it is addressed on tab 2d of the report and will be marked in the field. Bill Root stated that most towns have a placard and it will be in the property management rules. Schopick stated that a final document could be subject to the City Attorney approval. Schopick asked about comments from the City Engineer. MaryRose stated that she received his memo this afternoon. His memo is dated 6/29/15 and stated that the project meets or exceeds design standards and met all city guidelines for storm water management. Collins noted the summary on page 10 of the report – will decrease peak flows of run off.

Magnan asked about the S & E control plans and if MaryRose was comfortable with this. MaryRose stated that it complies with state guidelines, will be inspected and monitored and is typically bonded. Mitigation is also bonded and monitored for 3 years.

Cowden asked about the snow shelf by unit 1; there are two snow shelves close to a detention pond. He is concerned with snow storage calculations they are based on 90 degree angle packing that will be difficult. He is concerned with salts and other snow chemical deicing. Allowing for a 6" storm then removing half. Last years storms were back to back. Concerned that snow could be pushed over 4' fences – he would like to look at large signs 8' high, 6' high fence. Gilmore stated that he has added 10 additional snow stockpiling locations that could replace those of concern mentioned.

Cowden is concerned about pesticide for lawns. Atty. Hollister stated that this is addressed at the conservation easement. Cowden stated that he is

concerned with professional spraying and then rain and chemicals getting in the wetlands.

Munson asked about the auto salvage area and how much soil removal there would be. Gilmore stated that he personally saw one barrel and does not anticipate any significant excavations. If soil is removed it will be tested and they are obligated to notify DEEP and DEEP would establish protocol. Munson asked about blasting and protecting the wildlife during. Atty. Hollister stated that the 5/13/15 memo addresses this; there is no impact, there will be micro blasts 6' from the foundation under the control of the Fire Marshall. Bill Root stated that there will be barrier fencing to exclude wild life during construction and they will do sweeps to remove the ~~habitat~~ turtles; temporary fencing and permanent barriers. Munson asked if there was documentation on soil testing from the original disturbance. MaryRose stated that the IWA did not exist then. Munson addressed Mr. Hauck's comment stating that he has been on the IWA for 14 years and once someone was in favor of a project.

Margeson noted that it was stated that building 2 was not built due to contamination and asked if there was any evidence of this. MaryRose stated that she was just hired then and feels that it was a funding issue and it sat empty for a while; there was no discussion of contamination. Connors stated that it was unoccupied for several years and then Subway purchased it; it was not due to contamination. He has lived in Milford for more than 70 years.

Dunn asked Dr. Klemens about invasive species removal and possible harm from his letter. Dr. Klemens stated that the applicant has confirmed the removal of invasives is confined to the development site. The only issue with Exhibit B is there is a piece of conservation easement that needs to be carved out of that. When you remove invasives you need to look at the cause of why they are there, otherwise they will come back and could destroy habitat (shelter/hiding places of the turtles). Box turtles don't care if they are in bayberry or multiflora so with invasive control, you need to look at risk and benefit. He recommends removal only in the development part of the site and doesn't feel there is a benefit in removal in the conservation easement. It should be removed in the area of vernal pool 2 as well. DeFlumeri stated that removal is a 2-3 year process and will already have a source of seedling so will always have a problem and asked if a bond would cover this. MaryRose stated that it is typically a minimum of 3 years. Dr. Klemens stated that the best case is elimination and some control.

Cowden asked for clarification on the Engineering report; compact down 50% and report says removal. Gilmore stated that this past year storage was difficult. The calculations are based on a 6" snow event and 10 or more sites have been identified for storage.

Magnan addressed the application being denied by the Police Commission and stated that the IWA does not coordinate with other boards but are regulated by State Statute and must follow regulations. He referenced Section 10 of these regulations and that the continuation of the Public Hearing is today. He asked that MaryRose review the time frame. MaryRose reported that once the Public Hearing is closed there is 35 days to act. Magnan would like a copy of the Phase I Study.

The following items were requested:

- Restriction of pesticides herbicides
- Snow removal plan clarification
- David Murphy's hydrology report 5/13/15
- Results from Geoquest
- Revision of exhibit B for conservation easement and snow shelf
- Testing of the soil be a condition of approval
- Clear delineation on watershed and water flow boundaries
- No car washing on site and no power washing chemicals

Magnan asked about the governance. Atty. Hollister stated that the Landlord would be responsible.

Dr. Klemens asked how difficult it would be to have soil testing to give neighbors comfort as a condition of approval in the development area. Dr. Klemens asked what an acre contribution means for increased flooding. Gilmore stated that even adding that sliver of land would have a reduction in runoff.

Schopick addressed notice of meetings; minutes are on line, the file is in the office and can be seen anytime.

The Public Hearing will be continued to 7/17/15.

D. Old Business

- 1. IW-A-15-017: 0 Tanglewood Circle, Lot 28, April Culver** – proposed single family home with construction, grading and filling in and within 100' of wetlands in the Housatonic River Watershed.

MaryRose reported that this is a proposal for a single family home with construction, grading and fill in and within 100' of a wetland in the Housatonic River Watershed. This proposal for 0 Tanglewood Circle Lot 28 is to fill 1,836 sq. ft. of wetland with 13,052 sq. ft. of work in the 100' upland review area for the construction of a house and yard and access to a septic system for a single family home. The applicant is proposing to use a rubble wall to delineate the edge of the filling and the wetland and to create 1,010 sq. ft. of wetland. They are also proposing a pervious driveway with a gravel

reservoir area for stormwater treatment. We have received a petition with 51 signatures requesting a public hearing on this application.

We have received an extension of time from the applicant. There is a site walk for this application on 7/7/15 at 4:30 pm. Please let me know if you are unable to attend.

2. **IW-A-15-018: 0 Tanglewood Circle, Lot 29, April Culver** - proposed single family home with construction, grading and filling in and within 100' of wetlands in the Housatonic River Watershed.

MaryRose reported that this is a proposal for a single family home with construction, grading and fill in and within 100' of a wetland in the Housatonic River Watershed. This proposal for 0 Tanglewood Circle Lot 29 is to fill 3,919 sq. ft. 16,043 sq. ft. of work in the 100' upland review area for the construction of a house and yard and access to a septic system for a single family home. The applicant is proposing to use a rubble wall to delineate the edge of the filling and the wetland with no wetland creation proposed. They are also proposing a pervious driveway with a gravel reservoir area for stormwater treatment. We have received a petition with 51 signatures requesting a public hearing on this application.

We have received an extension of time from the applicant. There is a site walk for this application on 7/7/15 at 4:30 pm. Please let me know if you are unable to attend.

3. **IW-A-15-020: 701 North Street, Stone Preserve, LLC** – proposed 63 unit residential community with construction, parking and grading within 150' of an offsite wetland or watercourse in the Wepawaug River Watershed.

MaryRose reported that this is an application for a 63 unit planned residential community at the Stone property at 701 North Street with work within 150' of wetlands on adjacent properties. There are no wetlands on the site. There are wetlands to the North and West on The Orchards Golf Course owned by the City and on a privately owned rear lot to the Southwest.

We have hired LBG for a Third party review as to impacts to the wetlands from this proposed development. I expect to have the report by the end of July. No Action.

E. Minutes

A motion was made by Connors, seconded by DeFlumeri to accept the minutes of 6/17/15 as presented. The motion carried with Schopick abstaining.

F. Staff Report

- The June DEEP- Legal and Administrative Updates Training had some interesting cases. MaryRose will try to get a copy of the outline for the next meeting.
- Site Status:
 - Burnt Plains Rd field – I met with Scott Farquharson and Reverend Mixie on 6/29/15. The seed is coming up in Rain Garden A, Rain Garden B & C have both been planted primarily with Black Eye Susans. I received the report from Jennifer Beno of SSES on 6/16/15. Her report notes that additional plantings and splash pads need to be added to Rain Gardens B&C and the plants should be watered through the dry period. Rev Mixie has asked Ms. Beno to comment on the type, size and number of planting required behind his home. We called for 3 gal sized plants on 5' centers. His landscaper is quoting a price of \$1,000 for the plants. He would like to either reduce the number of plantings or the size of the plants to make it more economical. The yard debris is removed there are leaves in the area but they have stopped putting yard waste into the wetland area. I recommend that we wait for Ms. Beno's recommendation and take this up at the next meeting.
- Indian River Interceptor –ongoing.
- Sanitary Sewers Infills No 2 (Plains Rd/Shelland St/High St/White Oaks Ter) - Final paving/stabilization work ongoing.
- Way Street work is ongoing,
- West Main Street is ongoing
- 1595 Boston Post Rd project is ongoing.
- 84 86 Old Field Lane is ongoing.
- 134-142 Old Gate Lane – bio-retention area is in, parking lot is under construction foundation work is ongoing.
- CT-DOT is working on the cells under the I-95 Bridge over the Wepawaug.
- Please remember to call or email if you are unable to attend a meeting.

G. Chair's Report

Collins thanked everyone for the time and effort put into reviewing the applications presented.

A reminder that if you are receive a telephone call or are stopped by a concerned citizen that wants to talk to you about a project that is before the Agency, you need to tell them to either write it down and submit it to the Agency office or come and speak at a public hearing. I know that it is difficult and you don't want to be rude when people refuse to listen to your requests to stop talking about an application, but you don't want to

receive information outside of a meeting. If you refer them to the office MaryRose will explain that by speaking outside of a meeting they are jeopardizing your ability to vote and she will be able to guide them in how best to get their information in the file and to the entire Agency.

The next meeting will be the site walk for Tanglewood Circle on July 7 at 4:30pm.

The next regular meeting will be on 7/15/15.

A motion was made by Connors, seconded by Schopick to adjourn at 10:40 p.m.

Respectfully submitted,



Lisa Streit

These minutes have not been accepted or approved.