

Minutes of the Regular Meeting of the Inland Wetlands Agency on April 16, 2014.

A. Roll Call

Present: Allen Cegan, Cathy Collins, Ken Cowden, Carol Dunn, Lily Flannigan, Brendan Magnan, Justin Margeson and Steve Munson.

Absent: Jim Connors, Dave DeFlumeri and Richard Lutz.

Also Present: MaryRose Palumbo and Lisa Streit.

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

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Comments

None.



D. New Business

1. **IW-A-14-019: 734 Naugatuck Avenue, Devon Power, LLC** – proposed sediment processing in upland review area for hydraulic dredging remediation in tidal area of Housatonic River with work within 100' of a wetland or watercourse in the Housatonic River Watershed.

MaryRose reported that this application is on the agenda for the first time and can be discussed at the next regular meeting.

E. Old Business

1. **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.

No new information, no action taken.

2. **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. Information to be submitted by 4/15/14.

MaryRose reported that at the 2/19/14 meeting the Agency required the Fredericks to:

- Submit a revised planting plan with input from the MIWA office and Southwest Conservation District office to be submitted by 4/15/14.
- Conditional on approval of that planting plan, the plantings and erosion controls must installed by 5/15/14.

She spoke with Mrs. Frederick last week; her proposed planting plan and conditions were in your mail this evening. Ellie Tessmer the Master Gardener at the Conservation District has worked on the plan along with Roman and has offered to help the Fredericks by supplying some plantings from her property for the mitigation plantings for planting suggestions.

Mrs. Fredericks arrived and distributed an excerpt from Stream and Pond Buffers for Urban Landscapes and the Agency took time to read this. She stated that she would space the plantings per the SWCD handouts.

Item #2 of the IWA requirements is tabled until Mrs. Fredericks can speak to Roman; he said to leave out the slope for now until she can speak to him. She doesn't feel that they ever disturbed it and doesn't feel that she should have to excavate it. She is looking for the planting plan for the lower area only with the slope to be discussed later. Collins addressed item 3 of Mrs. Frederick's letter and stated that one month is not sufficient for growth. Mrs. Fredericks stated that she feels 3 years is excessive. Collins stated that survival of the plants must be seen over the seasons for at least one year and then can be revisited to see the stability of the plantings. MaryRose stated that the trees that were there were protection for the slope and they are no longer there and it takes more than a month to see if plantings will survive. Mrs. Fredericks stated that the trees had no leaves, it was dead and there was no canopy. The slope has been untouched. There was a lot of debris, garbage and downed limbs. Deer eat the growth now. She understands that trees need to be nurtured but questioned how they can ensure survival. She submitted pictures from google showing no leaf growth. MaryRose distributed pictures from google with leaf growth and the highlighted area. Cowden stated that the plan does not address the required plant size and they are too small. Mrs. Fredericks stated that the recommendations were from the Conservation District. Cowden stated that the type of plant is good but the size is not. Mrs. Fredericks stated that cost is an issue. Collins stated that a larger plant will most likely survive and not need to be replanted. MaryRose stated that the debris was supposed to be removed from the slope. Mrs. Fredericks stated that it was there when they bought the house. MaryRose stated that there is yard waste, logs, etc. on the edge of the property and city property. Mrs. Fredericks stated that they cleaned up the area and you couldn't see the debris before. Collins stated that this was the same issue a year ago no matter who put it there.

MaryRose discussed that in item 2 of Mrs. Frederick's letter she refers to a grandfathering situation whereby she should not be held responsible for debris within the upland review area that overlaps the property line from her lot onto the City Open Space property. There are no 'grandfathering' rules in the Inland Wetland

Regulations or Statutes. The reason for the removal of the debris was to stabilize the slope and prevent additional dumping.

In items 3 & 4 Mrs. Frederick's states that the success of the mitigation plans not be based on the survival of all of the plants. The reason for a mitigation plan and bonding is to ensure stabilization of the slope which would require the plants to survive over a period of time – 1 month is not long enough, typically it is 3 years. The Agency has released bonds earlier if there is success after 2 years. Mrs. Fredericks requirement that the violation be released by 6/15/14 holding them harmless unless more than 1 tree dies because it would be labor intensive and expensive to monitor for a longer period is unusual and she believes is unacceptable for the Agency.

The Fredericks cleared trees within the upland review area, on their property and on City Open Space without benefit of a permit. The area needs to be stabilized and restored. They Agency has the authority to require that restoration.

MaryRose stated that she will address with the City Attorney as to who is responsible for the debris and if the IWA can walk the property that has a violation verses an application.

No action taken.

3. **IW-V-13-063: 30 Cedar Hill Road, Nancy Smith** – removal and deposition of silt and material from a pond and intermittent watercourse with work in and within 100' of a wetland or watercourse in the Indian River Watershed without permit. Work to be completed by 5/7/14.

Work to be completed by 5/7/14. No action taken.

4. **IW-M-12-080: 400 Burnt Plains Road, Baybrook Remodelers, Inc.** – modification request for wall and grading for an approved 1590 sq. ft. structure with construction, grading and work within 100' of a wetland or watercourse in the Indian River Watershed.

MaryRose reported that this is a request for modification to the existing permit for the Youth Center building of Grace Baptist Church at 400 Burnt Plains Road. Baybrook Remodelers has submitted a modification request to allow a wall within 5' and grading within 7' of the wetlands to accommodate additional doors and a shortened stairwell. Baybrook Remodelers has already made the changes to the doors and stairs and is now looking to get IWA approval to add the wall and complete changes in grading.

At the last meeting the Agency had questions for the applicant. MaryRose met with Mr. Farquharson on 4/8/14 and a memo on that meeting was in your mail this

evening. Mr. Farquharson was planning on submitting any outstanding information this evening.

Scott Farquharson addressed MaryRose's memo:

Rain gardens – Has the engineer determined if Rain Garden B may or may not undermine the existing retaining wall in that area. *Farquharson stated that per the engineer it passed the perc tests and the existing retaining wall will hold per this evenings' letter submitted.*

- Is the Engineer concerned with Rain Garden B being located over the gas line? *Farquharson stated that per the Engineer this will be ok.*
- Has a percolation test been performed in the area of Rain Garden B? *Per the Engineer it has.*
- Can Rain Garden A be moved $\pm 20'$ west to the edge of the walking path to take it out of the area for snow plowing/piling snow? *Per the Engineer it can not as it is a flat area and is as low as the wetlands.*
- Were percolation tests performed to determine if the rain gardens will function where they are proposed? *Yes*
- Infiltrators were mentioned as an alternative to Rain Gardens; can the engineer determine if the infiltrators will function in these areas? *Per the Engineer, this is not a good idea.*

Side doors – Can the deck for the second floor exit stairs be made larger or moved to the East to allow the sidewalk for the first floor door to go under it along the side of the building? *They are making the door an emergency door only with an alarm and it is not to be used other than for an emergency.*

- Please provide a grading plan for the path to the lower and upper door showing location and type of sidewalk/path (pervious path preferred) as well as elevations. The location of the path was reviewed on the plans; on the building side; *if required by this commission he would do 8-10' of pea stone.*
- Is there a cross section that shows the amount of fill for the retaining wall and stairs from the second floor? *3 yards of compacted fill confirmed by the Engineer. SK1 drawing.*
- Can the lower exit door, landing and path be moved away from the wetland area? *There is no alternative to the exit door location due to Fire Marshall requirements and the terrain on the site.*
- Is handicapped access required? Will additional ramps for access be required? *Farquharson stated that handicapped access is not required and stated that the fire door exit cannot be moved more than 6-8" because it needs to be on the opposite side.*

Miscellaneous – What are the alternatives to this proposal that will have a decreased impact on wetlands? *Farquharson stated that the doors were not required until after the wetland approval and construction had started. There is no alternative to the exit door location due to Fire Marshall requirements and the terrain on the site.*

- Will the property owner and applicant be abiding by the original conditions of approval and remove the debris that has been deposited in the East side of the wetlands behind the parish house? *Farquharson spoke with the pastor and he will be clearing that debris out in conjunction with the split rail fencing.*
- The original approval brought the shed and stone dust seating area to the West of the house which were done without permit into compliance. On the site walk it was noted that materials were being stored there under tarps. This area was applied for as a fire pit and gathering place; if various materials are to be regularly stored there, additional permitting is required or the materials must be removed. *Farquharson stated that he looked under the tarps and it is firewood and patio furniture.*
- Erosion controls are required along the edge of the temporary storage area in the parking lot. This area has dirt and debris which can erode into the adjacent wetland. When can the IWA expect them to be installed? *Farquharson stated that they were installed today.*
- It was stated that the roof drains would have leaf guards to protect the downspouts and underground piping from clogging but the guards are missing from the rear of the building. *Farquharson stated that a section came off and it will be done next week.*

Magnan stated that the report from the consulting engineer states that some of the stones need to be replaced to repair the wall. They will restack some of the boulders. He questioned if the engineer stated why the wall had to be repaired. Farquharson stated that it is just for aesthetics not utility. Collins stated that there NEEDS to be clarification on the engineers' requirement to repair the wall.

Cowden stated that he has a concern with pea stone grass or stone dust. It will stick to the snow and get shoveled into the wetland and he is concerned that a handicapped person will not be able to traverse this area in an emergency; the company being used for the wall also makes permeable pavers. Rain garden A, he is still concerned with snow plows pushing material into it and feels if it has to stay in this area then 6 X 6 granite posts along the parking area side would prevent material from being plowed directly into the rain garden and filling it in. Farquharson questioned how long to make the path. MaryRose reviewed the side of the building on the plan submitted 4/16/14 and suggested pervious pavers from the door to the south end of Rain Garden C.

The following motion was made by Munson, seconded by Cowden:

I move to approve this modification request to IW-A-12-080 based on the plans entitled:

- *"Soil Erosion Control Plan Improvement Location Survey Grace Baptist Church Youth Center belonging to Grace Baptist Church Inc. property located at 400 Burnt Plains Road, Milford, Connecticut" by Lewis Associates, sheet 5 of 10 dated: 11/14/12 revised 3/18/14 ;*

- “Youth Center Grace Baptist Church, 400 Burnt Plains Road, Milford, CT 06461” by Baybrook Remodelers, Inc. sheet A-5 of 7 dated 5/22/13 revised 3/18/14.

the information in the file and presented this evening, for the following reasons:

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

All conditions from the existing approval remain and the following conditions are added:

- pervious paver path is to run from the lower level emergency exit door to the south end of rain garden ‘C’ as shown on the plan submitted 4/16/14
- granite posts on 4’ centers between rain garden A and the parking area
- Clarification of the Engineers letter dated 4/15/14 on requirement that stones in retaining wall need to be reset and to be repaired – is that for stability or aesthetics?
- The Permittee will submit a construction plan showing the detail for the rain gardens, roof drainage, side walk and existing retaining wall *prior* to doing the work and taking out the permit modification.
- The modified permit must be recorded on the Land Records of the City of Milford to be made valid.
- An additional mitigation monitoring bond to be calculated for the rain gardens and additional planting areas. This bond must be posted *prior* to the start of any additional work.
- The Permittee must submit weekly reports on the status of the erosion controls on site and project progress.
- Wetland notification to be placed on the asbuilt and in the property deed to give notification to property owners that permits are required from the MIWA to work on the site.
- The Permittee must submit a certification by the project Engineer that the completed project meets the design intent of the approval prior to bonds being released.

The motion carried unanimously.

A motion was made by Munson, seconded by Cowden to modify the agenda to hear item E.6. next. The motion carried unanimously.

- 6. IW-A-14-015: 395 Burnt Plains Road & 0 Robert Dennis Drive, City of Milford**
– proposed drainage improvements with work within 100’ of a wetland or watercourse in the Indian River Watershed.

MaryRose reported that this is a proposal by the City of Milford for drainage improvements on properties at 395 Burnt Plains Road and 0 Robert Dennis Drive. The proposal is to extend an existing drain that ends in the middle of a yard at 395

Burnt Plains Road on to open space property discharging into an existing detention basin at 0 Robert Dennis Drive. Location of the discharge pipe to allow sheet flow from the pipe will require the disturbance of 204 sq. ft. of wetland soils in an irregularly shaped area. They are proposing to mitigate this disturbance by reseeding the area with a New England Wet mix from New England Wetland Plants. Additional maintenance work proposed includes the cleaning of the existing outlet pipes from the detention basin. City Engineer Gary Wassmer was in attendance to present this application.

Wassmer submitted a colored rendering and explained proposal. The purposed of this proposal is to eliminate flooding in the back yards on Alexander Road. He reviewed the existing pipe and the proposed flow; it currently ponds behind a shed and floods the property. The plan is to pipe and redirect it to a detention basin and swale. MaryRose stated that she walked the site last week and that this will help the drainage flow in this area as well as removing invasives and she recommends the work be done in the summer.

The following motion was made by Munson, seconded by Cowden:

I move to approve application IW-A-14-015, 395 Burnt Plains Road and 0 Robert Dennis Drive based on the plans entitled "*Drainage Plan Burnt Plains Road, Milford, CT*" By CCG, cover & 2 sheets dated 2/24/14, the information in the file and presented this evening, for the following reasons:

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

With conditions including:

- The Permittee will submit a construction plan *prior* to taking out the permit.
- Wetland notification to be placed on the asbuilt and in the property deed to give notification to property owners that permits are required from the MIWA to work on the site.
- A Construction plan must be submitted prior to the permit being taken out.
- A bond to be calculated must be posted by the contractor with the MIWA for S&E controls, border plantings, wetland boundary markers and an asbuilt showing finished 2' contours and locating all site structures.
- The Permittee must submit a certification by the project Engineer that the completed project meets the design intent of the approval prior to bonds being released.
- The permit is issued 4/16/14 and expires 4/16/19 unless otherwise provided by Statute.
- Work will be done in the summer months dry period.

The motion carried unanimously.

5. **IW-14-12: 1718 Boston Post Road, Costco Wholesale** – proposed removal of 2-36" pipes replacing with a 4' x 6' wide box culvert with work in and within 100' of a watercourse in the Indian River Watershed.

MaryRose reported that this is a proposal by Costco to upgrade the drainage system on a portion of their property at 1718 Boston Post Road. As a result of a Court Settlement Costco is proposing to enlarge the drainage culvert from 2-36" RCPs to a 4' X 6' box culvert. At the last meeting the Agency had questions for the applicant. The information distributed this evening from Maser Consulting answers those questions:

- An engineering report on the design storm;
- The City Engineers review of the engineering report;
- CT-DOT review of the proposal;
- Review by the City Attorney's office;
- Information on alternative plans considered specifically around the swale.

The City Attorney's office stated that the Agency should treat this like any other application look at it on the merits of the case: is it within your jurisdiction does it comply with the regulations, and then act upon the application.

MaryRose would recommend that the work take place during the dry season – June to August to limit downstream disturbance. Magnan asked about alternatives. Cowden stated that we would have asked for an expert opinion from an engineer and we have 3 engineers saying that this is the thing to do. Magnan asked for clarification on replacing existing 36" pipe. MaryRose reviewed that they would take them out and put new ones in or put in a larger 4 x 6 box. She reviewed the flow on the plans.

The following motion was made by Munson and seconded by Cowden:
I move to approve application IW-A-14-012 based on the plans entitled "*ALTA/ACSM Land Title Survey prepared for Costco Wholesale Corporation 1718, 1722 & 1768 Boston Post Road, City of Milford and Town of Orange, Connecticut*" by CJOJ, LLC, sheet 1 of 2 dated 6/4/09 revised 8/8/09 and "*Erosion and Sedimentation Control Plan Costco Wholesale 1718 Boston Post Road City of Milford, New Haven County, CT*" by Maser Consulting, 1 sheet dated 3/6/14, the information in the file and presented this evening, for the following reasons:

- The engineering reports have shown that the box culvert is necessary to carry the stream in larger storm events and to reduce potential damming in the existing 2-36" RCPs.
- Additional drainage work to increase the pipe size is off of the Costco property.

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

With conditions including:

- The Permittee will submit a construction plan *prior* to taking out the permit.
- The work takes place during the dry season – June to August to limit downstream disturbance.
- Wetland notification to be placed on the asbuilt and in the property deed to give notification to property owners that permits are required from the MIWA to work on the site.

- A bond to be calculated must be posted with the MIWA for S&E controls, stabilization plantings, wetland boundary markers and an asbuilt showing finished 2' contours and locating all site structures.
- The Permittee must submit a certification by the project Engineer that the completed project meets the design intent of the approval prior to bonds being released.
- The permit is issued 4/16/14 expires 4/16/19 unless otherwise provided by Statutes.

The motion carried unanimously.

F. Minutes

A motion was made by Munson, seconded by Cowden to accept the minutes of the 3/25/14 Special Meeting and the 4/2/14 Regular Meeting as presented. The motion carried unanimously.

G. Staff Report

MaryRose reviewed a flyer for a climate adaptation workshop (CAA) that UCONN has modeled after their CLEAR land use academy workshops. CAA is a one-day session for municipal commission members (Planning and Zoning, Inland Wetlands, Conservation), municipal officials, coastal engineers and other interested professionals. The Academy will be held twice a year, and is modeled after UConn CLEAR Land Use Academy. The cost is \$20 for May 3, 2014 at the UConn Avery Point Campus. It runs from 8:30 until 3pm and includes breakfast and lunch. Please let the office know if you would like to attend.

She has not received any information yet on DEEP session II training – it is usually held at Gateway in early June and covers legislative changes and recent legal cases. She will email everyone when they send out the information.

Sanitary Sewers Infills No 2 will be starting within 2 wks (Plains Rd/Shelland St/High St/White Oaks Ter)

51 Westmoor Road is ongoing.

Grove St Pump station and sewer project final paving and planting will be in the spring.

Indian River Interceptor is on hold

Sanitary Sewer Infill's No. 1 final paving will be in the spring.

Cascade Blvd- Garden homes is ongoing,

Way Street is ongoing

Girl Scout Pool is ongoing.

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

Collins questioned the Way Street drainage installation; two houses are built with no drainage installation. MaryRose will send a letter to the applicant to attend the next meeting for clarification on this.

Munson asked about a site walk for Lakeside Drive. MaryRose will follow up with the City Attorney on this.

H. Chairwoman's Report

None.

The next regular meeting will be on 5/7/14.

There being no further business to discuss, the meeting adjourned at 9:25 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa Streit", written in a cursive style.

Lisa Streit

These minutes have not been accepted or approved.