

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on June 03, 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: DPLU Director Joe Griffith, 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.
- 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.**

MaryRose noted the following:

The file contents list is in the file and available in the MIWA office.

MaryRose noted that the Certificates of Mailing were received on 5/19/15.

The MIWA walked the site on 4/28/15; the weather was clear and warm. She walked the site on 5/13/15 with Connors.

Attorney Hollister introduced John Gillmore, Bill Root and Michael Klein and reported that since 5/13/15 there has been significant input from Dr. Klemens and will implement this at the end of the presentation. The application of 1/23/15, the 5/13/15 supplemental material and boards are part of the record.

John Gillmore PE with Milone & McBroom, oriented the site. It is a 26 acre site along Wheeler's Farm Road with 10 acres proposed. He proceeded to outline the wetlands and vernal pool areas on the plans. The central wetland is highly disturbed in order to build the front parcel of about 14 acres which was part of this parcel at one time. He reviewed the corporate plan that was proposed for this site and showed an overlay of the prior approval versus the current proposed plan. There is a driveway already for 440 Wheeler's Farm Road and the prior application. Changes were made based on Dr. Klemens recommendations. The box turtle activity is between 2 vernal pools. 9 buildings, a club house and parking are proposed that equal 180 units which equal 1.95 parking spaces per unit. The pump stations and sewage flow in the area was reviewed. A gravel road over the sewer line for service exists and will remain an easement. The only access will be Wheelers Farms Road. A photometric plan was created around the site by the wetlands per Dr. Klemens concerns about light. There will be 5 acres of roads, a club house and a pool. A buffer around the wetland and protection of the vernal pool has always been designed. Storm water management was reviewed; a 4 bay area as well as flood storage areas. Earth work calculations were provided and reviewed as well as the elevation and fill in table. Blasting and rock removal will be required with an 8,000 cu. yd. net input of earth overall.

Bill Root, Certified Soil Scientist and Ecologist with Milone and McBroom, reviewed and oriented the site. The undeveloped conditions were reviewed. Prior approval was reviewed; access road is already installed, two wetland crossings already exist. There are no direct wetland impacts with this proposal. The water features on the site were reviewed. A 1970 aerial photo was reviewed and showed the site as a plowed farm field with a power line easement. A 1990 aerial photo was reviewed and showed a lot of excavation, the sewer line installed. The southwest corner of the farm had been abandoned first and foresting can be seen. There are no wetlands on the site of the proposed development. A 2012 aerial photo was reviewed and showed the beginning of invasive species and a hint of central wetland 1/vernal pool area. This has very low ecological value. A DEP ecologic resource map was viewed and showed the central wetland band, and a manmade farm pond. In 2004 and 2013 wetlands were delineated. A picture presentation was reviewed showing the vegetation on the site and resource mapping (from Attachment 5 of Inland Wetland Delineation and Wetland Impact Assessment Report). The farm pond was excavated and bermed up and has large frogs. The central isolated wetland area was reviewed and has low quality and can be used to improve the hydrology. Vernal pool 2 was reviewed as well as the power line right of way and vernal pool 3 which has the

best habitat. Vernal pool 3 is underneath the power line. This was reviewed on the plan/pictures. Pictures were viewed of the sewer line easement. This is 0.2% of the watershed contributor to the Wepawaug River and has next to no risk to the water quality in the Wepawaug. NDDP mapping was reviewed and some box turtles were found. As part of the mitigation plan wildlife protection measures have been taken both temporary and permanent. Wetland function and value tables were submitted and reviewed. The site has been extensively developed over time. To remove pollutants is important as well as wild life habitat. The central wetland/vernal pool 2 has very low function and values. The location that the Eastern box turtles were found was reviewed and 3 were found. Vernal pool data; they are all Tier III. Tier III is the lowest rating based on egg mass or endangered species. The nature of development; regulated activity is about 3 acres. There is no filling of wetlands and no direct wetland impacts. They worked very hard to preserve a wetland buffer. Access is already in; 3 acres of disturbance that will be replanted with native shrubs and invasives removed. There will be no changes to the hydrology to the wetlands on site, which is a very important feature. There are no direct wetland impacts therefore no alternatives are needed. However, the disturbance has been mitigated. Efforts have been made to improve the hydrology in wetland 2 to be a little more productive to small wild life. Basins will be vegetated in an effort to discharge a clean run off which will be an improvement. In his professional opinion he does not feel this project will have a negative impact to the site or downstream.

Michael Klein, Biologist and Soil Scientist. Eric Davison is his co-worker and they have been engaged to conduct a peer review and see if there were any recommendations to minimize impacts. Review of the site expanded after the initial review, additional field data was gathered and a more collaborative effort was made. They were on the site in 2014 6 or so dates and in 2015 6 or so dates and reviewed the same photos and agree with Milone and McBroom. Vernal pool 2 first appeared in 2004; this was shown on the drawing and has had significant impacts with the parkway, etc. and is clearly man made. The end of April last year algae was very, very thick which would be typical for July or August. The Army Corps Bulletin #9 Highway method was used and this is an isolated wetland with limited significance. The most recently found turtle has been chewed on by a wild animal/dog. 3 turtles do not support a viable population. They take a long time to mature and have a low reproductive capacity. The ability for turtles to migrate is pretty limited. Additional field surveys have been done and he generally agrees with Milone and McBroom's conclusions regarding the vernal pools. Minnow trapping was done in early April 2015 and found no spotted salamanders. The vernal pool has very limited productivity of one species, the wood frog. This is mostly related to fragmentation of habitat over the last 25-30 years. Vernal pool 2 has a variable hydrology which can cause a decoy pool; larvae are unable to successfully mature making this not a significant resource. Wetland 1 has a significant wild life habitat; vernal pools are not a significant part of that system. In conclusion, there are no significant impacts from this project. The engineering plans have been reviewed and Section 4 of the report addresses 15 items and all but 4 have been addressed. The remaining items can

be incorporated as conditions of approval; monitoring, exclusion measures to control use of wild life, Sediment and Erosion measures with minor modifications – no nylon or plastic in erosion control blankets, and a detailed design of the sediment basin. The site has been significantly disturbed in the past; biological diversity is limited by past decades. He agrees with Dr. Klemens to provide additional buffering to protect the mature forest. He also agrees with Dr. Klemens in shifting the project closer to wetland 2. This is an ecologically good idea.

John Gillmore – stated that they have been before the Conservation Commission and they intend to comply with their recommendations. The 1.7 acre power line easement will remain. The remainder of the site 11.9 acres will remain as a permanent conservation easement. It was proposed that vernal pool 2 be a conservation easement and the Conservation Commission felt it was not worth it. The proposal meets all DEEP requirements. All pavement and rooftop systems will be pretreated. The existing parking area was pointed out by Dr. Klemens; they will explore how to improve the water quality in the existing parking lot. An invasive species management plan will be proposed. He stated that Dr. Klemens primary focus area was the hibernation area. This has been identified and superimposed on the plan. He referenced plan LM1 of 1/9/15 that shows the mature wood line consistent with the 1970 and 1990 aerial photos. Dr. Klemens suggested work be 50 – 100’ away for a buffer of the turtles. This is where building 2 and the clubhouse is. LM1 dated 6/3/15 shows the mature wood line and 100’ offset. They have eliminated building #4 and split it up and moved the club house. This would still have no direct wetland impacts. They are amenable to incorporate Dr. Klemens recommendations.

Attorney Hollister stated that they need to confirm the grading and engineering of this plan to determine if Army Corps involvement would be required. This plan was just created today. They would like to propose extending the Public Hearing to 7/1.

Collins called for those **IN FAVOR**

None.

Collins called for those **AGAINST**

Roco Frank, 411 Lexington Way N, stated that he lives adjacent to the power lines and that the applicant is doing a commendable job and asked who is paying for the expert testimony. He further stated that 450 people living in the woods will have impact to the environment. There is a sinkhole problem in Lexington Green. A metal plate has been put there and it has been replaced twice on Acorn Lane. If the grade changes as proposed the water will be directed and he would like a study done on how this project would affect the sinkhole problem at Lexington Green. He is familiar with the woods and hikes there. He has been here for 10 years and invasives have been there. If the 1 acre zoning stays in effect that would be ok, but this project will have an environmental impact with people.

June O'Connell, 102 East Rutland Road, stated that this application would have a detrimental impact and she is asking for help. The high ground water level has flooded basements to the point that federal assistance has been needed. There is mostly ledge and clay and the soil does not drain. The entire area is wetland soil types. She questioned an intermittent water course and stated that the area is all wetlands and should be protected. On 5/13/15 Mr. Gilmore stated that there is ledge everywhere yet blasting will not affect the wetlands. She referenced Section 9.1 of the IWA Regulations that stated there is not a Public Hearing except if there is a significant impact. There is to be massive large scale excavating that will have vehicles and will be trucking in fill and outside material. Repairing is not the same as preserving. She already sees less frogs and feels the area needs to be protected and she asked that the application be denied.

John Richardson, 103 West Rutland Road stated that his back yard is 70 yards away and it is constantly wet year round. His basement is always wet. He sees coyotes and would like things the way they are.

Michael O'Connell, 102 East Rutland Road stated that you cannot say that there won't be leaching into the wetlands or that car oils won't end up in the wetlands. Restaurants need grease separators. Mr. Root stated that the wetlands were made smaller. Wetlands grow, not shrink. This land should not be used.

Ruth Krasenics, 86 E. Rutland Road stated that she gets water in her basement and had to have a sump pump and then had to have a second one installed and she is concerned with more. This will destroy the wildlife and environment with blasting, tree removal and congestion. 316 apartments will be 700 people. The emergency access across from the driveway has turkeys, white skunks and deer. She submitted a poster board of pictures of wildlife in this area. She is concerned with fertilizer and pesticides from yards. She questioned affordable housing and asked that the application be denied.

Ann Berman, 77 Pelham Street, stated that in 1990 there was no Wetland commission and formal building required a DEP permit. She referenced 8-309G law that gives builders the rights to build affordable housing. This area has no public transportation. This stretches the envelope to cut deeper and further. There is not just surface impact but underground impact to vernal pools. She would like buildings 1, 2 and 4 eliminated. When Lexington Green was built a black oil crossed the highway. The habitat is just returning now. She asked how there would be no impact to the hydrology, drainage and frogs. Frogs represent us and health. She submitted her letter for the record.

Michael Rhodes, 29 East Rutland Road, stated that water flows into the stream that goes through his yard. There are frogs, turtles, snakes, pollywogs, etc. and these have dwindled. He saw oil slicks from the construction of Lexington Green and Merritt

Crossing 10 years ago and the habitat has slowly returned but not to the abundance that it was. Construction has greatly affected the wildlife. There are two vernal pools on site. He does not believe the proposal will protect the wildlife. This is a massive development and they have a loop hole of affordable housing or this wouldn't be allowed.

Danielle Burns, 29 East Rutland Road, stated that the area has been historically used for farming and thankfully 2 box turtles have been found; they do not breed until they are 10 years old and they live for 30 years. These facts are from the DEEP website. There is a plethora of wild life in the area and she asked how there can be no impacts. She asked about an archeological review. She feels the area is being exploited and asked if the experts have visited the land. She feels there is not an objective third party to educate on the use of pesticides. She has taken some environmental psychology classes and feels the 8-309G law turns the use around.

Ruth Telep, 41 East Rutland Road, stated that she agrees with her neighbors and that she has a sump pump. There is a brook between the Rhodes property and hers. She questioned 1.9 parking spaces per unit as well as there being no guest parking. She is concerned with paving. She heard no mention of the brook; it runs year round and is only several feet from her yard. 50 and 100 year storms are coming every year now and there has been 4-6" in a 24 hour period and asked if there is sufficient drainage. 1 acre zoning should be kept.

Pat Kelly, 329 Wheeler's Farm Road, stated that she lives next door to a property that was developed and her property has become a wetland and the project was seriously underestimated. We have had super storms and the drains in the street have not been sufficient and there have been thousands of dollars in damages. She lives with the water and can no longer mow her lawn; she has to use a weed whacker. She submitted pictures of wild life in her yard.

Lisa Ialdanodierao, 166 East Rutland Road, stated that she grew up in this house and before Lexington Green there was lots of wild life and it has now been drastically reduced. There is no chance for it to come back with more building. She is worried about blasting and the effects to the wildlife. She had a coyote in her yard and she agrees with her neighbors.

Tammy O'Connell, 225 Union Avenue, West Haven, stated that she grew up at 102 East Rutland Road and there is a significant amount of wildlife. She has gone to Planning & Zoning meetings and the access road was to be for emergency access only and to be left as is and now it is being ½ paved. Birds will only pass through the site and she is sure there are more turtles on site and questioned the location and if turtles know boundaries. There has been re-growth but there is no potential for further re-growth with more building. Any negative impact will be significant; there are many forms of wild life. She questioned how blasting and excavation will improve the

area. She asked how the turtles will be removed and where would they go. Barriers would mean less habitat. She asked that this project be denied.

Todd Nichols, 25 Chevelle Place, agrees with all of his neighbors and feels this project will be detrimental to the wildlife. There is deer in his back yard and it has been a wonderful experience for his daughter and himself to see the wildlife. His yard is a cross way for deer, turkey, muskrats, etc. Climate change is a detriment per the President and so is over development.

Steven Povroznik, 312 Wheeler's Farm Road, applauds the applicant for trying to work with the IWA and would like more information about the sink hole. He questioned if residents will be able to wash cars here. He further questioned that if there is to be no screening with nylon or plastic what would be used. He also questioned barrels begin buried on site and what is in those barrels. Water drains through an ancient culvert and old field stone and is not standard size, it has been here forever. East Rutland Road floods now to the point where barriers have to be put up and he questioned if the hydrology efforts will help or hurt this.

Paul DePrato, 166 East Rutland Road, stated that historically there has been disruption to this site with Lexington Green and Merritt Crossing. This area was all fields at one time and feels that just because something is there doesn't mean more should go there.

Edmond J. Ramos, 139 Pine Knob Terrace, stated that before the office buildings were built there were wetland hearings, Planning & Zoning meetings and experts were heard and there would be no effects to the wetlands, traffic or people in the area. In 2011 heavy rain and paving from the office buildings flooded every street on Pine Knob. Water hit his garage door and bent the door and flooded his basement. A study is not the actual thing; you have to wait for that. History shows that with 180 units there is no doubt there will be flooding and it will be worse. There are more wild life than turtles; there are deer, fox, coyotes all of the time. Things will change to our detriment and this application should be denied.

REBUTTAL

Attorney Hollister stated that flooding was a common issue and this has been addressed in the 5/13/15 packet submission. An archeological review had to have been done when the sewers went in. They will look into the sink hole. They will address the emergency access road and storm water concerns. They will be changing some buildings and will also change the drainage and will submit these changes as soon as possible for review.

A five minute recess was taken.

Collins stated that the Public Hearing will be held open and that the IWA did hire an independent expert, Dr. Klemens, and his report has been submitted and the IWA walked the site as well.

Munson questioned the sink hole and 35,000 cu. yds. of fill. Hollister clarified that there would be a net import of 8,000 cu. yds. of fill. Munson stated that most of the flooding is off site and realizes that this can not be addressed unless there is a direct impact to the wetlands but he asked that the applicant address this. Munson asked about blasting, wildlife protection and where drainage would go from any washing of cars. Munson also asked about an old culvert that was mentioned at 312 Wheeler's Farm Road and how this affects this project; and asked that this be addressed.

Magnan stated that the IWA is highly trained on the definition of wetlands and our expert has assured the IWA that this is accurate. This is a volunteer board that is trained to uphold the law and there is a very specific definition of what a wetland is.

DeFlumeri referenced Dr. Klemens report noting that species are cyclical; they don't breed every year and are at the bottom of the breeding time. He stated that a re-study may need to be done in the future and that the study is not long term.

Collins stated that she agrees; the report states that although they are low, they are coming back. Dr. Klemens applauded the storm water management. Dr. Klemens is to review the revised site plans. The Public Hearing will be open until 7/1/15.

Munson referenced Dr. Klemens report of 5/21/15 regarding the garbage dumpster being 200' away and asked that the applicant address this with the new plan.

MaryRose addressed those in attendance that a citizen tried to speak to IWA members and was deferred to the office. This is considered ex parte communication and that any communication needs to come before the whole board. Ex parte communication could exclude a board members ability to vote. Magnan stated that board members come with no pre determination and wanted to make that very clear.

E. 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.

She has requested quotes for a 3rd party review and is waiting for replies. She would expect to have a consultant by the next meeting if the Agency wants to schedule a site walk for June 15th. Magnan asked what areas would the 3rd Party review. MaryRose replied that they would review the Engineering, wetland delineation and habitat. No action taken.

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.

She has requested quotes for a 3rd party review and is waiting for replies. She would expect to have a consultant by the next meeting if the Agency wants to schedule a site walk for June 15th. No action taken.

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.

She is in the process of retaining a company to review the application as to impacts to the wetlands from this proposed development and is unsure of when the report will be submitted. The IWA walked the site on 4/9/15 for the previous application and asked if the IWA would like to walk the site again. Schopick asked if the applicant was satisfied with the previous site walk. MaryRose stated that the applicant has asked that the IWA keep all information from the previous application.

Magnan asked what the 3rd Party review would be for. MaryRose stated that hydrology and pesticides are the issues. A Phase I study was done and part of a Phase II study; the issue is if it will impact the wetlands. DeFlumeri would like to see any reports from when the golf course was built. MaryRose will look into this.

F. Minutes

- A motion was made by Connors, seconded by DeFlumeri to accept the minutes from the 5/6/15 meeting as presented. The motion carried unanimously.
- It was noted that the meeting of 5/13/15 ended at 11:15 p.m. vs. 10:15 p.m. A motion was made by Connors, seconded by DeFlumeri to accept the minutes of 5/13/15 as amended. The motion carried unanimously.
- It was noted that Cegan and Flannigan were present, Margeson was not present and Schopick was not the voting alternate at the 5/20/15 meeting. A motion was made by Connors, seconded by DeFlumeri to accept the minutes of 5/20/15 as amended. The motion carried unanimously.

G. Staff Report

The June DEEP- Legal and Administrative Updates Training will be 9 to 12:30
Friday June 19, 2015 DEEP Marine Headquarters, Old Lyme
Wednesday June 24, 2015 DEEP Sessions Woods, Burlington
Wednesday July 1, 2015 Northeastern CT Council of Governments, Dayville
Please let the office know if you would like to attend.

Site Status:

Burnt Plains Rd field – MaryRose received the report due 5/15 on 5/20. She is meeting Scott Farquharson on site tomorrow morning to check on the status.

Indian River Interceptor –ongoing.

Meadowside Rd – waiting for grass to stabilize.

Sanitary Sewers Infills No 2 (Plains Rd/Shelland St/High St/White Oaks Ter) - Final paving/stabilization work ongoing.

Way Street work is ongoing,

Westmoor Road waiting for grass to stabilize.

West Main Street is ongoing - mitigation plantings to begin this week.

1595 Boston Post Rd project is ongoing.

86 Old Field Lane is ongoing.

134-142 Old Gate Lane – parking lot is under construction.

CT-DOT is starting work this week on the cells under the I-95 Bridge over the Wepawaug at North Street. MaryRose walked the site with DOT & the contractor last week. They have erosion controls and turtle protocols in place to protect the Wepawaug River during the work period which runs through the fall.

She received a compliment from a citizen on the performance of the Agency. They had noted over the last several meetings the amount of time and effort put in to properly review the applications presented. They said they were impressed with the obvious time that the Agency had spent preparing for the meetings and felt you should be complimented for all of your hard work.

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

H. Chair's Report

A reminder that if you 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. 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 June 17, 2015 in BOE Conference Room.

There being no further business to discuss, the meeting adjourned at 10:20 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.