

RECEIVED

CONSERVATION COMMISSION  
FAIRFIELD, CONNECTICUT  
MINUTES OF INLAND WETLANDS AGENCY MEETING  
FEBRUARY 4, 2010

FEB - 9 2010  
TOWN CLERK'S OFFICE  
FAIRFIELD, CT

The Conservation Commission, acting as the Inland Wetlands Agency of the Town of Fairfield held a meeting on February 4, 2010, in the All Purpose Room of the Osborn Hill Elementary School, 760 Stillson Road, Fairfield, CT.

**MEMBERS PRESENT:** Stanton Lesser, Chairman; Frank Rice, Secretary; J. Paul DeMarrais; Kathleen Maxham and Joan Neiley. **ALTERNATES:** Elizabeth Jones; Philip DiGennaro, Jr and Douglas Jones. **ABSENT:** Milan Bull and Landon Storrs. Also Present: Thomas Steinke, Conservation Director; Annette Jacobson, Conservation Administrator; Edward Jones, Open Space Manager; and members of the public and press.

**I. CALL TO ORDER**

The meeting was called to order at 7:32 p.m. by Chairman Lesser.

**II. APPOINTMENT OF ALTERNATES**

Elizabeth Jones, Douglas Jones, and Philip DiGennaro, Jr. were appointed to sit as full members.

**III. BILLS AND COMMUNICATIONS**

A. Approval of Minutes of Meeting January 7, 2010: Joan Neiley *moved* and Elizabeth Jones *seconded* to approve the Meeting Minutes of January 7, 2010. *Motion passed unanimously.*

B. Approval of Secretary's Bill for January 7, 2010: Frank Rice *moved*, and Elizabeth Jones *seconded* to approve the Secretary's Bill for January 7, 2010. *Motion passed unanimously.*

J. Paul DeMarrais arrived at 7:37 p.m.

**IV. INLAND WETLANDS-DELIBERATIVE SESSION**

**A. OLD BUSINESS**

Chairman Lesser noted that the following two items would be addressed later during the meeting.

1. Budget IWWC Fees
2. Clarification of IWWC Fees

**B. NEW BUSINESS**

1. Monthly wetland business update for the Agency: Informational.

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**V. STATUS OF APPLICATION PREVIOUSLY FILED**

1. IWPA 2009-10-06, Town of Fairfield, DPW, Pilgrim Lane, Colonial Drive, Myron Street, Jennings Beach Parking Lot (880 South Benson Road) \*\* Also Potential Mitigation Area Proposed to Enhance Tidal Marsh Detention Basin by Oyster Road, Clinton Street and Milton Street; Assessor's Map 131, Parcel 11 – Construction of drainage within a regulated area – awaiting continued public hearing February 18, 2010.

**VI. NEW APPLICATION**

1. IWPA 2009-10-08, Duarte, 274 Inwood Road, Assessor's Map 30, Parcel 182 – Pool Renovations within a regulated area: Joan Neiley moved, and Douglas Jones seconded to find the matter non-significant and to table the matter pending departmental review. Motion passed unanimously.

**SUPPLEMENTAL AGENDA**

**I. INLAND WETLANDS DELIBERATIVE SESSION**

1. Request For Permit Time Extension:

(a) IWPA 2004-11, Town of Fairfield, H. Smith Richardson Golf Course, 2425 Morehouse Highway and Hoyden's Lane; Assessor's Map 67, Parcel 5 – Fill wetlands and modify drainage within a regulated area. Request of Gerry Lombardo for the maximum (5yr) extension (modified to a 3-year extension): Gerry Lombardo, Director of Parks and Recreation for the Town of Fairfield provided the Agency and Staff with a letter dated February 4, 2010, which included a request for modification of conditions of the permit. Annette Jacobson advised the Commission that since the request for modification was only received this evening, Staff did not have a chance to thoroughly review the request, but that there appeared to be significant changes being requested. It was Ms. Jacobson's recommendation that this matter be tabled so that Staff may have an opportunity to review the request and provide a detailed response. Joan Neiley moved, and Elizabeth Jones seconded to table this matter to the March 4, 2010 meeting. Motion passed unanimously.

At 7:40 p.m. Joan Neiley moved, and Elizabeth Jones seconded to temporarily suspend the meeting so that the Agency could conduct the Special Conservation Commission meeting. Motion passed unanimously.

The Inland Wetland Agency meeting was resumed at 7:43 p.m.  
Philip DiGennaro, Jr. left the meeting at this time.  
Kathleen Maxham arrived at 7:45 p.m.

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**REGULAR AGENDA**

**VII. PUBLIC HEARING**

1. IWPA 2009-10-07, 5545 Park Avenue, LLC, 5545 Park Avenue; Assessor's Map 14, Parcel 2: Demolish Existing House And Construct New Surgical Center, Grading and Drainage Within A Regulated Area:

The public hearing was opened at 7:45 p.m. Frank Rice read the call of the hearing. Following the close of the public hearing at 8:00 p.m., the Agency deliberated on the matter as follows:

Joan Neiley moved, and J. Paul DeMarrais seconded to approve the January 27, 2010 Staff Recommended Suggested Findings of Fact A through H, inclusive. Motion passed unanimously.

Douglas Jones moved, and Elizabeth Jones seconded to approve the January 27, 2010 Staff Recommended Specific Conditions of Approval. Motion passed unanimously.

Chairman Lesser noted that the applicant had requested a reduction in the application fees which it had paid, due to this matter actually coming in as a new application following an approval of a similar application on this site, but now back in front of the Agency with revised plans. It was noted that a new application was required due to the specific changes in the project, and that there had been a public hearing conducted in the earlier project. The Agency also acknowledged that additional staff time was required, including review of new plans, public hearing, etc.

Joan Neiley moved, and J. Paul DeMarrais seconded to approve the January Staff Recommended Standard Conditions.

The Agency then discussed the fee reduction. J. Paul DeMarrais moved, and Douglas Jones seconded to approve a seventy percent (70%) reduction of the application fee, which will be applied as a credit towards the permit fee and site disturbance fees due under Standard Condition \* 4 of the conditional approval. Stanton Lesser and Joan Neiley noted that they felt eighty percent would be an appropriate fee reduction.

Vote on seventy percent fee reduction: **In Favor:** Kathleen Maxham, J. Paul DeMarrais, Frank Rice, Douglas Jones. **Opposed:** Stanton Lesser, Joan Neiley, and Elizabeth Jones. Motion carries 4-3.

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Vote on approval of standard conditions, as modified with a seventy percent (70%) fee reduction/credit: Motion Passed Unanimously.

Kathleen Maxham moved, and Elizabeth Jones seconded to approve the application, together with the specific and standard conditions, as amended. Motion passed unanimously.

The public hearing was recorded on tape and is available at the Conservation Department, 725 Old Post Road, Fairfield, CT. The letter conveying the decision of the Agency is attached hereto as Exhibit A.

#### IV. INLAND WETLANDS-DELIBERATIVE SESSION

##### A. OLD BUSINESS

During discussion on the following item, Chairman Lesser noted that he would not vote due to a possible conflict of interest, and recused himself. Chairman Lesser left the room while the issue concerning clarification of IWWC was discussed and voted upon. Frank Rice chaired the meeting at this time.

2. Clarification of IWWC Fees: Annette Jacobson provided the Agency with a brief summary of the matter, noting that there are five files which permit time extensions were requested for which the Town received an overpayment of fees. The Agency reviewed the memo prepared by Staff on this matter. Mr. Steinke noted that he would like the Agency to confirm its intent with regard to the language in the regulations, in that it was not requiring that an applicant/permittee to pay an annual site disturbance fee when filing a permit extension fee, unless otherwise due as a result of site disturbance actually occurring at the site. Additionally, Mr. Steinke noted that he would also request that the Agency address the overpayment of fees, revise the regulations, and direct Staff to pursue payment of the outstanding fees in IWP 2002-09 (Stop and Shop). Frank Rice indicated that he would not like the Agency to pursue revising the regulations this evening, but that matter should be addressed through a subcommittee. Attorney William Fitzpatrick was present this evening on behalf of one of the permittees that had over paid site disturbance fees. Mr. Fitzpatrick also indicated that he is not in favor of the proposed revisions to the regulations as prepared by Staff, in that the applicant should not have to pay up to five years of site disturbance fees up front. Following considerable discussion, Kathleen Maxham moved, and Elizabeth Jones seconded to (1) confirm that the intent of the inland wetland agency regulations section regarding payment of the time extension fee (Section 18.5.4) only requires that permittee pay the \$2,890.00, and not the annual site disturbance fee; (2) to return the overpayment of fees as recommended by Staff; and (3) to have Staff pursue payment of the outstanding fees with regard to IWP 2002-09. In Favor: Kathleen Maxham, Frank Rice, Joan Neiley, Elizabeth Jones, and Douglas Jones. Opposed: J. Paul DeMarras. Motion carries 5-1.

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1. Budget IWWC Fees: Thomas Steinke provided the Agency with a brief summary of the circumstances surrounding the 2003 fee revisions, including the Board of Finance's position on the Agency increasing its fees to cover the expenses of the program pursuant to statute. Mr. Steinke noted that there was some question as to whether the interest income generated from the performance bonds posted in connection with the inland wetland program was considered part of the inland wetland revenue. Chairman Lesser suggested that all Commissioners review the information contained in the agenda packet, and that this matter be tabled to the March meeting for discussion. Annette Jacobson indicated that the Board of Finance meetings on the budgets are scheduled for March. Mr. Lesser noted that the Commissioners can contact members of the Board of Finance in support of the Conservation budget, if they wished to do so.

VIII. OTHER

1. Connecticut Association of Wetland Scientists (CAWS) Annual Meeting announcement. Informational.
2. State of Connecticut, Council on Environmental Quality, Annual Indicators-Inland Wetlands, "No Change". Informational.
3. CCM Municipal Leader Training, Making the Best Land Use Decisions-Wetlands, Water Quality Protection and Land Use Change. Informational.
4. Mill River Wetlands Committee Annual Meeting Friday February 5, 2010. Informational.
5. In response to inquiry by J. Paul DeMarrais, Thomas Steinke noted that he anticipates Richard Saxl will attend the March Inland Wetland Agency meeting to provide a status report. Mr. Steinke also noted that Attorney Saxl is continuing to communicate with the State on this matter.
6. Frank Rice requested that a subcommittee be appointed by the Chairman to review the regulations for changes/revisions needed. Mr. Rice volunteered to sit on this Committee. Mr. Lesser indicated that he will talk to Town Attorney on this subject.

There being no further business to come before the Agency, Douglas Jones *moved* and Frank Rice *seconded* to adjourn the meeting at 8:38 p.m. Motion passed unanimously

Respectfully submitted,  
Betty Gabriel

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