

**CONSERVATION COMMISSION
FAIRFIELD, CONNECTICUT
MINUTES OF INLAND WETLANDS AGENCY MEETING
OCTOBER 7, 2010**

The Conservation Commission, acting as the Inland Wetlands Agency of the Town of Fairfield held a Meeting on October 7, 2010, in the All Purpose Room of the Osborn Hill School, 760 Stillson Road, Fairfield, CT.

MEMBERS PRESENT: Stanton Lesser, Chairman; Milan Bull, Vice Chairman; Frank Rice, Secretary; J. Paul DeMarras and Kathleen Maxham. **ALTERNATES:** Elizabeth Jones; and Philip DiGennaro, Jr. **ABSENT:** Landon Storrs; Joan Neiley; and Douglas Jones. Also Present: Thomas Steinke, Conservation Director; Annette Jacobson, Conservation Administrator; Edward Jones, Open Space Manager; Noel Newman, Assistant Town Attorney; Mary Carroll-Mirylees, Human Resources Director, 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 and Philip DiGennaro, Jr. were appointed to sit as full members.

III. BILLS AND COMMUNICATIONS

- A. Approval of Minutes of Meeting May 6, 2010: Elizabeth Jones *moved* and Philip DiGennaro, Jr. *seconded* to approve the Meeting Minutes of May 6, 2010. Following clarification on item V. B. 3. (b) that the bond release was as staff recommended, a partial release of \$16,000.00 of the in-common bond, and \$2,850.00 for lot 4, as set forth in the motion, *Motion passed unanimously.*
- B. Approval of Minutes of Meeting August 5, 2010: Elizabeth Jones *moved* and Philip DiGennaro, Jr. *seconded* to approve the Meeting Minutes of August 5, 2010. *Motion passed unanimously.*
- C. Approval of Secretary's Bill for August 5, 2010: Elizabeth Jones *moved* and Philip DiGennaro, Jr. *seconded* to approve the Secretary's Bill for August 5, 2010. *Motion passed unanimously.*
- D. Approval of Minutes of Special Meeting September 16, 2010: Elizabeth Jones *moved* and Philip DiGennaro, Jr. *seconded* to approve the Special Meeting Minutes of September 16, 2010. *Motion passed unanimously.*
- E. Approval of Secretary's Bill for September 16, 2010: Elizabeth Jones *moved* and Philip DiGennaro, Jr. *seconded* to approve the Secretary's Bill for September 16, 2010. *Motion passed unanimously.*

**DRAFT MINUTES SUBJECT TO REVIEW, CORRECTION AND APPROVAL BY
THE INLAND WETLANDS AGENCY OF THE TOWN OF FAIRFIELD**

- F. REGULATIONS COMMITTEE: Frank Rice, Chairman: Mr. Rice reported that the Regulations Committee had met recently, and that only two members were able to attend. Another meeting is scheduled for next week; Mr. Rice will arrange for proper notice to be sent to the Town Clerk's office.

J. Paul DeMarrais arrived at 7:37 p.m.
Kathleen Maxham arrived at 7:38 p.m.

IV. CLOSED SESSION FOR PERSONNEL MATTERS

At 7:40 p.m., Elizabeth Jones *moved*, and Philip DiGennaro, Jr. *seconded* to go into closed executive session to discuss personnel matters and pending litigation, and to invite Thomas Steinke and Annette Jacobson for the pending litigation portion. *Motion passed unanimously*. Assistant Town Attorney Noel Newman also attended closed executive session regarding pending litigation.

Milan Bull arrived at 7:40 p.m.

At 8:08 p.m., Annette Jacobson, Thomas Steinke, and Assistant Attorney Noel Newman left closed executive session. Attorney Noel Newman did not return to the regular session.

At 8:22 p.m., Milan Bull *moved*, and Kathleen Maxham *seconded* to go out of closed executive session. *Motion passed unanimously*. Chairman Lesser noted that no motions were made or votes taken during closed executive session. Chairman Lesser also noted that the Town personnel director had also attended closed executive session.

V. INLAND WETLANDS – LEGAL/ENFORCEMENT ACTION

1. DISCUSSION OF PENDING LEGAL ACTION(S) WITH TOWN ATTORNEY: (see above).
2. Red 11, LLC v. Conservation Commission, 1159 Redding road – Memorandum of Decision Regarding Attorney's Fees: There was no discussion on this matter.
3. Correspondence Regarding Swann Fill Wetland Soil And Pipe Watercourse Violation – 3007 Redding Road – Non-Completion of Restoration/Request For Another "Final" Time Extension: Annette Jacobson advised the Agency that Mr. Swann had previously requested, and had a received a "final extension" back in December of 2008. Ms. Jacobson indicated that Mr. Swann was seeking another extension. Frank Rice *moved*, and Milan Bull *seconded* to grant the extension until June 15, 2011. *Motion passed unanimously*.

VI. INLAND WETLANDS DELIBERATIVE SESSION

A. NEW BUSINESS

1. IWP 2003-08, Black Rock Realty, LLC – Status Report/Update By Redniss and Mead, Consultant on 3rd Train Station: No report was provided. Chairman Lesser inquired whether the members were receiving status reports, and indicated that any members interested in participating in a site visit should avoid having more than three members going to the site at one time (to avoid a quorum).
2. Public Hearing Procedures For Wetland Agencies by Mark K. Branse, Esq.: Chairman Lesser noted that the information provided by Attorney Austin Wolf was very helpful and thanked him for this submittal.
3. Request For Release of Performance Bond: Following an indication by Annette Jacobson that all of the items noted on the agenda, with an exception of item 3m, were reviewed by the Bond Consultant, Milan Bull *moved* and Elizabeth Jones *seconded* to approve the following requests for release of performance bond(s) as recommended by Staff:
 - a. IWP 302, Lot 45, The Ridge Subdivision, 443 Brambley Hedge Circle; Final release of the bond in the amount of \$300.00;
 - b. IWP 83-10, Kelley Subdivision, Lot 2, 181 Lakewood Drive; Final release of the bond in the amount of \$3,700.00;
 - c. IWP 83-30, Spector Subdivision, Warner Hill Road; Final release of the in-common bond in the amount of \$1,700.00;
 - d. IWP 84-4, Newman, et als., Eliot Place, Office Building, Final release in the amount of \$240.00;
 - e. IWP 84-22, Laufer, 24 Coventry Lane, Final release of the bond in the amount of \$555.00;
 - f. IWP 85-26, Trinity Baptist Church, North Benson Road; Final release of the bond in the amount of \$100.00;
 - g. IWP 85-30, In-Common, Barbieri, Woodhouse Road; Final release of the bond in the amount of \$504.00;

- h. IWP 87-26, Autuori, 2700 Congress Street; Final release of the bond in the amount of \$500.00;
- i. IWP 88-40, Wellner Subdivision, Lot 3, 84 Laurelbrook Lane; Final release of the bond in the amount of \$500.00;
- j. IWP 88-40, Wellner Subdivision, Laurelbrook Lane – In-Common Work; Final release of the bond in the amount of \$500.00;
- k. IWP 89-22, Aspetuck Falls Road, In-Common Work; Final release of the bond in the amount of \$5,000.00;
- l. IWP 96-5, Payne, Trustee, 2527 North Street, Lot 4; Final release of the bond in the amount of \$5,285.00;
- m. IWP 2006-07-22, Steiner, Inc., Brighton View, Request of Walt Stapleton for final release of the bond in the amount of \$1,000.00.

Motion passed unanimously.

- 4. 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: Elizabeth Jones moved, and Milan Bull seconded to table this matter pending on-going discussions between Staff and Applicant. Motion passed unanimously.
- 5. Monthly Wetland Business Update For The Agency: Informational.

VII. NEW APPLICATIONS

- 1. IWPA 2010-11-02, Panigutti, 320 Pansy Road; Assessor's Map 123, Parcel 83; Construct New House Within A Regulated Area: Kathleen Maxham moved, and Milan Bull seconded to find this matter non-significant, and to table this matter pending legal notice and departmental review. Motion passed unanimously.
- 2. IWPA 2010-11-03, Rivera, 636 Mill Hill Road; Assessor's Map 228, Parcel 35; Construct New In-Ground Pool Within A Regulated Area: Milan Bull moved, and Elizabeth Jones seconded to find this matter non-significant, and to table this matter pending legal notice and departmental review. Motion passed unanimously.

**DRAFT MINUTES SUBJECT TO REVIEW, CORRECTION AND APPROVAL BY
THE INLAND WETLANDS AGENCY OF THE TOWN OF FAIRFIELD**

VIII. PUBLIC HEARING

At 8:33 p.m., Elizabeth Jones recused herself on the following matter, and left the meeting at this time.

1. IWPA 2010-11-01, Fairfield Gateway, LLC, 4185 Black Rock Turnpike (Plant Factory Site); Assessor's Map 118, Parcel 41; Demolish Existing Structures And Construct Medical Office Buildings Within A Regulated Area: The public hearing was opened at 8:33 p.m.; Frank Rice read the call of the hearing. At 9:16 p.m., Milan Bull *moved*, and Philip DiGennaro, Jr. *seconded* to close the public hearing. *Motion passed unanimously*. The public hearing was recorded and is available for review at the Conservation Department, 725 Old Post Road, Fairfield, CT.

Following the close of the public hearing, the Agency deliberated on the matter as follows:

Frank Rice *moved*, and J. Paul DeMarrais *seconded* to approve the staff recommended Findings of Fact A through I, inclusive. *Motion passed unanimously*.

Kathleen Maxham *moved*, and Milan Bull *seconded* to the staff recommended Specific Conditions, with the following revisions:

Specific condition 1(d) is revised to read "reduce the FE line to be in accordance with the revised plan submitted during the October 7, 2010 public hearing";

Specific condition 2* is revised to read "During pre-construction, identify the exact location of the existing subsurface sewage disposal system; abandon or remove components of the existing system as necessary to ensure viability of the proposed subsurface stormwater system."

Add another specific condition to read: "Only mechanical excavation of rock is permitted; if it is subsequently determined that blasting is required, a detailed blasting proposal must be submitted to and approved by Conservation Staff, showing how the vernal pool will be protected from disturbance".

Motion passed unanimously.

Milan Bull *moved*, and Kathleen Maxham *seconded* to approve the standard conditions. *Motion passed unanimously*.

Milan Bull *moved*, and Kathleen Maxham *seconded* to approve the application. *Motion passed unanimously.*

A copy of the letter conveying the decision of the Agency is attached hereto as Exhibit A.

IX. OTHER
X. ADJOURNMENT

There being no further business to come before the Inland Wetland Agency, Frank Rice *moved*, and Kathleen Maxham *seconded* to adjourn at 9:22 p.m. *Motion passed unanimously.*

Respectfully submitted,
Betty Gabriel