

**CONSERVATION COMMISSION  
FAIRFIELD, CONNECTICUT  
MINUTES OF SPECIAL INLAND WETLANDS AGENCY MEETING  
JULY 15, 2010**

**AMENDED AND APPROVED BY INLAND WETLAND AGENCY ON AUGUST 5, 2010**

The Conservation Commission, acting as the Inland Wetlands Agency of the Town of Fairfield held a Special Meeting on July 15, 2010, in Meeting Room II of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT.

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

**I. CALL TO ORDER**

The meeting was called to order at 7:45 p.m. by Chairman Lesser.

**II. APPOINTMENT OF ALTERNATES**

No Alternates were appointed to sit as a full member.

**III. BILLS AND COMMUNICATIONS**

A. Regulations Committee – Frank Rice, Committee Chairman: Following discussion, it was determined that the first meeting of the Regulations Committee will be held on August 12, 2010.

**IV. INLAND WETLANDS – LEGAL/ENFORCEMENT ACTION**

1. DISCUSSION OF PENDING LEGAL ACTION

At 7:46 p.m., Joan Neiley *moved* and J. Paul DeMarrais *seconded* to go into executive session to discuss legal matters and invited Conservation Staff and Town Attorneys Noel Newman and Richard Saxl to attend. *Motion passed unanimously*. At 8:00 p.m., Chairman Lesser requested that Staff leave the executive session; Town Attorneys Saxl and Fleischman remained throughout the discussion. At 8:55 p.m., Joan Neiley *moved* and Kathleen Maxham *seconded* to go out of executive session. *Motion passed unanimously*. Staff was invited to return to the meeting at this time. Chairman Lesser indicated that no votes were taken during executive session. The public and press also returned to the meeting at this time.

2. Edward Bateson, et al., vs. Gary Weddle (Quo Warranto Regarding Hiring of a Wetlands Compliance Officer on the Train Station Property): The Inland Wetland Agency discussed this matter at length. Attorney Charles Fleischman provided the Agency and those present with a summary of the recent court decision in which Judge Arnold had ruled in favor of the Plaintiff, in that the hiring of Gary Weddle as a Wetlands Compliance Officer was illegal, null and void, and that the hiring of Mr. Weddle failed to comply with the Town Charter in that the

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

Wetlands Compliance Officer is required to be under the supervision of the Conservation Director. Attorney Fleischman reminded the Wetlands Agency that it was not made a party to this action, and that Gary Weddle was the named Defendant. Attorney Fleischman further advised the Agency that the Judge's decision indicated that Gary Weddle could be hired as a designated wetland agent and that Mr. Weddle's performance while he acted as Wetlands Compliance Officer was not a subject of the quo warranto action. Attorney Fleischman further indicated that the court took the phrase Wetlands Compliance Officer to mean that the Town of Fairfield could only have a singular Wetlands Compliance Officer because that's the way the phrase appears in a definition in the regulations; it does not appear otherwise in the Town Charter or Wetlands Ordinance. Although that issue was not in the Complaint, the court chose to include that in its ruling in spite of the fact that the statutes define – with respect to persons – singular can mean plural and plural can mean singular. Chairman Lesser noted that he was of the opinion that Judge Arnold's decision went beyond the allegations of the action. It was further noted that the Plaintiffs' request to amend the complaint had not been granted by the Court, and as such, the final judgment must conform with the allegations contained in the original complaint. Attorney Fleischman noted that the Court's ruling effectually stated that the Inland Wetland Agency could not have multiple Wetlands Compliance Officers. Following considerable discussion, Kathleen Maxham *moved* and Joan Neiley *seconded* that the Inland Wetlands Agency support and encourage Dr. Weddle to take an appeal of the Bateson decision and to request the town attorney to file an amicus brief on behalf of the Inland Wetland Agency.

Following the motion, the Agency continued to discuss the concern in the ruling that there could only be one wetlands compliance officer. Upon inquiry by J. Paul DeMarrais, Attorney Fleishman indicated that the Town of Fairfield is paying Mr. Weddle's attorneys fees in this matter, as an employee of the Town. J. Paul DeMarrais inquired as to whether the appointment of Mr. Weddle was in violation of the Town Charter, and further noted his concern for the incurrence of legal fees, and whether an appeal would be worth the expense.

Vote on the Motion: **In Favor:** Stanton Lesser, Frank Rice, Milan Bull, Joan Neiley, Landon Storrs, Kathleen Maxham. **Opposed:** J. Paul DeMarrais. *Motion carries 6-1.*

Kathleen Maxham *moved* and Frank Rice *seconded* that Dr. Weddle be immediately retained as a designated agent to supervise the construction of the third train station until the final resolution of the appeal, and that Dr. Weddle be under the general supervision of the Conservation Director.

Joan Neiley indicated that she would like to hear from Gary Weddle on this matter, and that he should also report to the Inland Wetland Agency. Joan Neiley *moved* and Landon Storrs *seconded* to amend the motion to include that Dr. Weddle be under the general supervision of the Conservation Director, and that he should report directly to the Inland Wetlands Agency.

Vote on the motion to amend: *Motion fails.*

The Agency members reiterated the intent of the original motion, as follows:

Dr. Weddle be immediately retained as a designated agent to supervise the compliance of Inland Wetland Permit No. 2003-08 for the third railroad station, and that he will be under the general supervision of the conservation director until the resolution of the appeal.

J. Paul DeMarrais indicated that the supervision of the construction is not at all what the job is; Richard Saxl agreed with Mr. DeMarrais.

Following an indication by Milan Bull that Conservation Staff is now back on the job, Frank Rice inquired how Gary Weddle could be under the supervision of the Conservation Director, if the director is not allowed on the site, per the direct orders of the First Selectman. Richard Saxl noted that he would contact the First Selectman regarding this issue. Mr. Saxl advised the Agency that to the extent they are creating policy- they have the authority to do that; to the extent that it is administrative, then he would discuss the matter with Mr. Flatto to inquire whether he sees fit to approve the amendment, or the motion as amended.

Milan Bull noted that his concern is not when and where the railroad station gets built; but that his concern is the environmental clean-up.

Thomas Steinke indicated that he received a letter from the administration removing staff entirely from this project, and that if the motion passes he would be required to be on the site, and that the motion would be inconsistent with what the administration has imposed. J. Paul DeMarrais noted his concern that the Agency is not taking advantage of one of the top conservation people in the State of Connecticut.

Kathleen Maxham withdrew her motion at this time.

Landon Storrs *moved* and Joan Neiley *seconded* that Dr. Weddle be immediately retained to supervise the administration of the inland wetland permit #IWP 2003-08, that he be under the general supervision of the Conservation Director, and that he report to the Inland Wetland Agency, until resolution of the appeal.

Vote on the Motion: **In Favor:** Stanton Lesser, Frank Rice, Joan Neiley, Landon Storrs, Kathleen Maxham. **Opposed:** Milan Bull, J. Paul DeMarrais. *Motion carries 5-2.*

Kathleen Maxham inquired whether the Agency should make a recommendation to the First Selectman; J. Paul DeMarrais noted his concern that this makes no sense whatsoever.

J. Paul DeMarrais *moved* and Landon Storrs *seconded* to have Town Attorney make a recommendation to the First Selectman that the Conservation Director and Staff be reinstated, and to charge them with full over-site, responsibility and authority on the Black Rock project.

Vote on the Motion: **In Favor:** Landon Storrs, Milan Bull, J. Paul DeMarrais. **Opposed:** Kathleen Maxham, Stanton Lesser, Joan Neiley. **Abstention:** Frank Rice *Motion fails 3-3-1.*

There being no further business to come before the Agency, Kathleen Maxham *moved* and Landon Storrs *seconded* to adjourn the meeting at 9:24 p.m. *Motion passed unanimously.*

Respectfully submitted,  
Betty Gabriel