

**CONSERVATION COMMISSION
FAIRFIELD, CONNECTICUT
MINUTES OF INLAND WETLAND AGENCY MEETING
MARCH 3, 2011**

The Conservation Commission, acting as the Inland Wetland Agency of the Town of Fairfield held a Meeting on March 3, 2011, 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; Joan Neiley; Kevin Gumper; and Kathleen Maxham. **ALTERNATES:** Douglas Jones; Philip DiGennaro, Jr. and Elizabeth Jones. **ABSENT:** Landon Storrs. Also Present: Thomas Steinke, Conservation Director; Annette Jacobson, Conservation Administrator; Edward Jones, Wetlands Compliance Officer/Open Space Manager; Richard Saxl, Town Attorney, and members of the public and press.

- I. **CALL TO ORDER:** The meeting was called to order at 7:30 p.m. by Chairman Lesser.
- II. **APPOINTMENT OF ALTERNATES:** Philip DiGennaro, Jr. and Douglas Jones were appointed to sit as full members.
- III. **BILLS AND COMMUNICATIONS:**
 - A. Approval of Minutes of Meeting February 3, 2011: Approval of Minutes of Meeting February 3, 2011: Kathleen Maxham *moved* and Milan Bull *seconded* to approve the meeting minutes of February 3, 2011. *Motion passed unanimously.*
 - B. Approval of Recording Secretary's Bill of February 3, 2011: Kathleen Maxham *moved* and Milan Bull *seconded* to approve the recording secretary's bill of February 3, 2011. *Motion passed unanimously.*
- Joan Neiley arrived at 7:35 p.m.
- C. Regulations Committee- Frank Rice, Chairman: Frank Rice indicated that he will provide the Commission members with a copy of his proposed changes to the Inland Wetlands and Watercourses Regulations next week so that they can have an opportunity to review them prior to the March 17, 2011 Regulations Committee meeting.
- D. Correspondence from Stuart Baldwin re: IWP 2001-06, Southport Village Partners' Performance Bond: Annette Jacobson indicated that the request for release of the performance bond in this matter will be placed upon the April agenda.

IV. **INLAND WETLANDS-LEGAL/ENFORCEMENT ACTION:**

Attorney Richard Saxl arrived at 8:07 p.m. during discussion on the following matter:

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

1. Continued From December 2, 2010 and January 6, 2011 – Cease and Correct Order-Show Cause Violation Hearing, Taylor, 2940 Redding Road – Unauthorized Excavation To Deepen A Watercourse And Removal of Wetland Soil: The Cease and Correct Order – Show Cause Violation Hearing was reconvened at 7:40 p.m. Edward Jones, Wetlands Compliance Officer/Open Space Manager, provided the Agency with a brief history and presentation concerning the various activities and prior violation on the subject property. Edward Jones indicated that the current violation activities include excavation and extension of a pre-existing ditch on the site. Attorney Joel Green filed a Verified Notice of Intervention in this matter on behalf of Greenfield Hill Village Improvement Society, Inc. Following presentations by James Taylor and his representatives William K. Beckman, P.E., LEP, of Leggette, Brashears and Graham, Inc. and William Kenny, CPWS, ASLA, of William Kenny Associates, LLC; a presentation by Conservation Department Staff, and Attorney Joel Green on behalf of Greenfield Hill Village Improvement Society, Inc., the Agency deliberated on the matter. Chairman Lesser indicated that he did not believe that the activities conducted by Mr. Taylor rose to the level of a violation, that they were permitted as of right as it was maintenance of the pre-existing ditch. Mr. Lesser further noted that he would have a different view if there had been a significant amount of material removed. The Agency members noted their concern that a watercourse had been altered by the removal of the material and that Mr. Taylor had conducted a regulated activity without obtaining an inland wetland permit. Following discussion, the Agency voted on the matter as follows:

Kevin Gumper *moved*, and Philip DiGennaro, Jr. *seconded* to uphold the cease and desist order. Chairman Lesser reiterated the motion, noting that it was to uphold the cease and desist order, without placing any conditions at this time. **In Favor:** Milan Bull, Frank Rice, Joan Neiley, Kathleen Maxham, Philip DiGennaro, Jr., and Kevin Gumper. **Opposed:** Stanton Lesser. *Motion passes 6-1.*

Chairman Lesser requested discussion on the conditions, noting that the ditch was pre-existing and questioned whether Mr. Taylor should be required to fill the ditch in to the level it was prior to his removing the material; Edward Jones noted that he had provided recommendations for correction, indicating that there is case law which provides that the material must be put back and that a permit should not be obtained after the fact. Following discussion, Kevin Gumper *moved*, and Kathleen Maxham *seconded* to hold the matter in abeyance, and to give Mr. James Taylor sixty days in which he can file an application for an inland wetland permit. *Motion passed unanimously.*

VOTE ON THE INTERVENTION FILED BY ATTORNEY JOEL GREEN ON BEHALF OF THE GREENFIELD HILL VILLAGE IMPROVEMENT SOCIETY, INC.:

Kevin Gumper indicated that he did not believe that the Intervenor met the standard that the conduct had or is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the State of Connecticut.

Kevin Gumper *moved*, and Kathleen Maxham *seconded* to deny the relief requested in the Verified Notice of Intervention. *Motion passed unanimously.*

V. 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 representatives from Redniss and Mead were available to provide a report this evening.

Kevin Gumpper recused himself on the following matter – Douglas Jones was appointed to sit as a full member:

2. Request for Release of Performance Bond:

Kathleen Maxham *moved*, and Frank Rice *seconded* to approve the following request(s) for release of performance bond as recommended by Staff:

- (a) IWP 2008-09-05, Fairfield University, North Benson Road, Request of Walt Stapleton for final release of \$7,000.00 for Phase 1, and \$6,100.00 for Phase 2.
- (b) IWP 2008-09-08, Pierce, 506 Sasco Hill Road, Request of Walt Stapleton for final release of \$13,000.00 for new house.

Motion passed unanimously.

Kevin Gumpper sat as a full member for the remainder of the meeting/Douglas Jones sat as an Alternate member for the remainder of the meeting:

VI. NEW APPLICATION:

1. IWPA 2010-11-07, Panigutti, 278 Pansy Road; Assessor's Map 123, Parcel 82. Subdivision Construction Within A Regulated Area: Kathleen Maxham *moved* and Philip DiGennaro, Jr. *seconded* to table this matter pending legal notice and departmental review. *Motion passed unanimously.*

VII. PUBLIC HEARING:

1. IWPA 2010-11-06, Piekarski & Cocco, Tuller Road and Little Brook Road, Assessor's Map 46, Parcels 26, 27 and 27A – Subdivision Construction Grading and Drainage Within A Regulated Area: The public hearing was re-opened at 9:18 p.m. Frank Rice read the call of the hearing. Immediately following the call of the hearing, the Agency took a break from 9:18 to 9:27 p.m. At 11:01 p.m., upon the applicant's attorney offering a 65-day time extension to continue the public hearing, Kevin Gumpper *moved* and Kathleen Maxham *seconded* to continue the public hearing to April 7, 2011. *Motion passed unanimously.* The public hearing was recorded on tape and is available for review at the Conservation Department.

VIII. OTHER:

- IX. ADJOURNMENT: There being no further business to come before the Commission, Kevin Gumper *moved* and Kathleen Maxham *seconded* to adjourn at 11:02 p.m. *Motion passed unanimously.*

Respectfully submitted,
Betty Gabriel