

**CONSERVATION COMMISSION
FAIRFIELD, CONNECTICUT
MINUTES OF INLAND WETLAND AGENCY MEETING
JUNE 2, 2011**

The Conservation Commission, acting as the Inland Wetland Agency of the Town of Fairfield held a Meeting on June 2, 2011, 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; Kevin Gumper; Joan Neiley; and Kathleen Maxham. **ALTERNATES:** Elizabeth Jones; Douglas Jones and Philip DiGennaro, Jr. Also Present: Annette Jacobson, Conservation Administrator; Edward Jones, Wetlands Compliance Officer/Open Space Manager; 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: Elizabeth Jones and Philip DiGennaro, Jr. were appointed to sit as full members.

SUPPLEMENTAL AGENDA:

Milan Bull arrived at 7:31 p.m.

III. INLAND WETLANDS – LEGAL/ENFORCEMENT ACTION

1. Appeal of Decision – IWPA 2010-11-06, Piekarski & Cocco, Tuller Road and Little Brook Road, Assessor's Map 46, Parcels 26, 27, 27A – Subdivision Construction Grading and Drainage Within A Regulated Area: Informational.

Joan Neiley arrived at 7:35 p.m. during the closed executive session.

2. Red 11 LLC, 1159 Redding Road Violation – Request of Assistant Town Attorney To Discuss Pending Litigation: Stanton Lesser indicated that Town Attorney will not be attending the meeting this evening, and further noted that the Commission may wish to come to a consensus that it would not be necessary to go into closed executive session to discuss the issue. Chairman Lesser noted that Red 11 is required to post bond funds. At 7:32 p.m. Kevin Gumper *moved*, and Elizabeth Jones *seconded* to go into closed executive session and invite staff. *Motion passed unanimously*. At 7:36 p.m., Kevin Gumper *moved*, and Philip DiGennaro, Jr. *seconded* to go out of closed executive session. *Motion passed unanimously*. Chairman Lesser announced that only Philip DiGennaro, Jr. would be sitting as a full member (now that Joan Neiley had arrived). Mr. Lesser further announced that no votes had been taken or motions made during closed executive session.

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

REGULAR AGENDA:

III. BILLS AND COMMUNICATIONS

A. Approval of Minutes of Meeting of May 5, 2011: Kathleen Maxham moved and Milan Bull seconded to approve the Meeting Minutes of May 5, 2011. Motion passed unanimously.

B. Approval of Recording Secretary's Bill of May 5, 2011: Kathleen Maxham moved and Kevin Gumper seconded to approve the recording secretary's bill of May 5, 2011. Motion passed unanimously.

C. Regulations Committee- No discussion.

IV. INLAND WETLANDS-LEGAL/ENFORCEMENT ACTION

1. Taylor Violation Action 2940 Redding Road – Chairman Lesser advised the Commission that this matter is being reviewed by Town Attorney.

2. Taylor Declaratory Ruling – 2940 Redding Road – Under review with Supreme Court. Informational.

V. INLAND WETLANDS DELIBERATIVE SESSION:

Kevin Gumper recused himself on the following matter:

A. OLD BUSINESS

1. FEE WAIVER REQUEST – Certificate of Wetlands Conformance (CWC) 2010-11-39, McKeon, re: 171 Fulling Mill Lane, additions, etc. Upon inquiry by Chairman Lesser, Annette Jacobson confirmed that this was one application, that no out-buildings were included as part of the construction activities, and that the work was going to be done on one structure but in three separate parts of the house. Chairman Lesser indicated that although the inland wetland agency regulations provided for the expanded fee for the separate construction activities, it is logical that only one fee would be charged. Frank Rice moved and Milan Bull seconded to approve a fee waiver in the amount of \$640.00. Motion passed unanimously. Chairman Lesser noted his opinion that it should be the Agency's practice to charge only one fee in circumstances such as this. It was the consensus of the Commission that this should be reviewed for incorporation into the Inland Wetland Regulations.

2. 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: Chairman Lesser indicated that a letter had been submitted by Attorney William Fitzpatrick requesting clarification of the Agency's May 5, 2011 decision on this application. Specifically, Attorney Fitzpatrick was seeking clarification with regard to paragraph 2 of the Additional Agency Imposed Specific Conditions of approval. Annette Jacobson noted that the decision was prepared by her and Betty Gabriel in accordance with the understanding of the vote and review of the recording of that evening's meeting. Annette Jacobson further indicated that any vote that resulted in a modification of that decision must be made by the Commissioners who had voted on May 5, 2011. Elizabeth Jones, Frank Rice, and Joan Neiley were not present at the last meeting and acknowledged that they would not participate in any vote to clarify the intent of the Agency's motion/vote of May 5, 2011, and therefore recused themselves. Agency Members voting include: Stanton Lesser, Milan Bull, Kevin Gumpper, Kathleen Maxham, Douglas Jones and Philip DiGennaro. Kathleen Maxham indicated that she recalls her intent and agrees with the practicality of Mr. Fitzpatrick's clarification that the well data be gathered from November through April. Kathleen Maxham *moved*, and Milan Bull *seconded* to clarify the Agency's May 5, 2011 decision by deleting the language requiring the monitoring "from November to April". *Motion passed unanimously*. The Agency confirmed that the remainder of that sentence – and the condition remains intact to require the monitoring, and that only the words "from November to April" were omitted from the decision.

3. IWPA 2010-11-08, Town of Fairfield (Toll Brother's Inc. as Agent/Applicant), 120 Acorn Lane; Assessor's Map 243, Parcel 230 – Detention Basin Modifications Within A Regulated Area: The withdrawal of this application was acknowledged by the Agency.

B. NEW BUSINESS

1. IWP 2003-08, Black Rock Realty, LLC – Status Report/Update by Redniss and Mead, Consultant on 3rd Train Station: Chairman Lesser reported that the developer is coming in to start on a building; a performance bond will be posted.

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

2. Request For Release of Performance Bond:

(a) IWP 2006-07-13, Patterson Club, 1118 Cross Highway, New Clubhouse,
Request of Walter Stapleton for:

Final release of \$4,200.00 of total \$14,200 for mitigation;
Final release of \$18,000 for site construction/drainage;
Final release of \$5,600.00 for grading.

Staff Recommends:

Denial of Mitigation Release due to need for as-built, etc;
Partial release of the construction/drainage bond of \$10,000.00; and
Final release of the grading of \$5,600.00

Annette Jacobson noted, and the Agency acknowledged the Staff's recommendations on the request for bond release(s):

Milan Bull *moved*, and Kathleen Maxham *seconded* to approve release of the performance bonds, in accordance with Staff's recommendations (denial of release of the mitigation bond due to need for as-built, etc; partial release of the construction/drainage bond in the amount of \$10,000.00; and final release of the grading bond in the amount of \$5,600.00). *Motion passed unanimously.*

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

VI. OTHER:

Annette Jacobson advised the Agency that it is anticipated that Toll Brother's will likely be seeking a modification of the older permit on Acorn Lane; a public hearing would be scheduled on this matter upon submittal.

VII. ADJOURNMENT: There being no further business to come before the Commission, Kathleen Maxham *moved* and Milan Bull *seconded* to adjourn at 7:50 p.m. *Motion passed unanimously.*

Respectfully submitted,
Betty Gabriel