

**CONSERVATION COMMISSION  
FAIRFIELD, CONNECTICUT  
MINUTES OF INLAND WETLAND AGENCY MEETING  
FEBRUARY 2, 2012**

The Conservation Commission, acting as the Inland Wetland Agency of the Town of Fairfield held a Meeting on February 2, 2012, in the All Purpose Room of Osborn Hill School, 760 Stillson Road, Fairfield, CT.

**MEMBERS PRESENT:** Stanton Lesser, Chairman; Milan Bull, Vice Chairman; Kevin Gumpper, Secretary; Frank Rice; Joan Neiley; Catherine O'Donnell; and Kathleen Maxham. **ALTERNATES:** Elizabeth Jones. **ABSENT:** *Note – two vacancies.* Also Present: Thomas Steinke, Conservation Director; 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 7:34 p.m. by Chairman Lesser.

II. APPOINTMENT OF ALTERNATES: Elizabeth Jones was appointed to sit as a full member.

III. BILLS AND COMMUNICATIONS

A. Approval of Minutes of Meeting January 5, 2012: Joan Neiley *moved*, and Kathleen Maxham *seconded* to approve the January 5, 2012 meeting minutes. *Motion passed unanimously.*

B. Approval of Recording Secretary's Bill of January 5, 2012: Kevin Gumpper *moved*, and Elizabeth Jones *seconded* to approve the recording secretary's bill of January 5, 2012. *Motion passed unanimously.*

Catherine O'Donnell arrived at 7:36 p.m.; Elizabeth Jones sat as an Alternate Member for the remainder of the evening.

VI. PUBLIC HEARING

1. IWPA 2011-12-05, Thorpe Street Corporation, 185 Thorpe Street; Assessor's Map 180, Parcel 148: Demo existing structures and construct 64-unit residential development, drainage and grading within a regulated area: The public hearing was opened at 7:35 p.m. Kevin Gumpper read the call of the hearing. Attorney John Fallon had filed a request for continuance of the public hearing on behalf of the applicant, and offered a 65 day extension. Commission access to the subject site was discussed; Attorney Fallon noted possible dates, and indicated that Conservation Staff was also invited. Commissioner site visits will be coordinated by Annette Jacobson, in order to avoid establishing a quorum. At 7:44 p.m., Kevin Gumpper *moved*, and Kathleen Maxham *seconded* to continue the public hearing to March 1, 2012. *Motion passed unanimously.* The public hearing was recorded and is available for review at the Fairfield Conservation Department, 725 Old Post Road, Fairfield, CT.

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

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

1. Red 11, LLC, 1159 Redding Road, Excavation, filling, grading, draining, and piping of wetlands and watercourses, violation, etc. from 2004-this matter was upheld by the Appellate Court in February 2010. There is new correspondence from the violator's attorney requesting more time to comply. Counsel for Red 11, LLC was present this evening to request to postpone the commencement of the Court ordered "Phase I" remediation activities required. The Agency discussed the many delays experienced to date, and noted that the duration of the Phase I activities are only anticipated to be two weeks from commencement to completion. Counsel for Red 11, LLC expressed concern for beginning work in poor weather conditions in that this may cause further sedimentation to neighboring properties. Edward Jones advised the Agency that he did not recommend further postponement of the remediation activities, and noted that site conditions (existing curbing) and use of plastic sheeting would provide protection of the disturbed soils thereby avoiding soil erosion, and would also speed seed germination. The Agency considered current weather conditions as well as the possibility of encountering rainy season conditions in the event commencement of the activities is postponed until the Spring months. Following considerable discussion, Joan Neiley *moved* to require that the Phase I remediation activities commence immediately, that plastic sheeting be used (for purposes of supplementing the required erosion and sedimentation controls), and that the activities required under Phase I be completed by April 15, 2012.

Kevin Gumpper *moved*, and Kathleen Maxham *seconded* to approve the request of Red 11, LLC to postpone commencement of the Phase I remediation activities, and to require that all Phase I remediation activities be completed no later than April 15, 2012.

Stanton Lesser suggested that the motion of Kevin Gumpper (as seconded by Kathleen Maxham), be amended to include that the parties be required to set down, in advance, a hearing date for a motion for contempt with the Bridgeport Superior Court so that this would be heard immediately following April 15, 2012, in the event that Red 11, LLC had not completed the required work.

Kevin Gumpper and Kathleen Maxham both approved the suggested amendment to the motion. There was no vote by the Inland Wetland Agency on this motion, as amended.

Frank Rice *seconded* the motion (above) made by Joan Neiley.

Chairman Lesser reiterated the motion, as follows:

"to require that the Phase I remediation activities commence immediately, that plastic sheeting be used, and that the activities required under Phase I be completed by April 15, 2012"

**In Favor:** Joan Neiley, Frank Rice, Milan Bull, Catherine O'Donnell. **Opposed:** Stanton Lesser, Kathleen Maxham, Kevin Gumpper. *Motion passes 4-3.*

V. INLAND WETLANDS – DELIBERATIVE SESSION

A. OLD BUSINESS

1. IWPA 2011-12-06, Brookside Acres, LLC, 145 Brookside Drive, Assessor's Map 123, Parcel 86; Subdivision construction within a regulated area: Kathleen Maxham moved, and Milan Bull seconded to table the matter pending legal notice and departmental review. Motion passed unanimously.

2. IWPA 2011-12-07, Davis, 1940 Merwin's Lane; Assessor's Map 218, Parcel 27-A. Retroactive approval of electric vault and re-grading within a regulated area - Applicant's request for a fee waiver: Annette Jacobson provided the Agency with a summary of this matter, noting that although the applicant had already completed the construction activities under a staff level permit (Certificate of Wetlands Conformance), Staff discovered that the applicant had encroached upon the disturbance line. Pursuant to the Agency's Regulations, activities beyond the disturbance line would require the approval of the Inland Wetland Agency. Annette Jacobson noted that although the limited encroachment is acceptable to Staff, she had concerns with regard to setting a precedent for similar situations in the future. The Agency noted that it would review these types of matters on a case by case basis, and would not establish a precedent. William Fitzpatrick spoke on behalf of the applicant, and noted the fees his client had already paid in connection with the staff level Certificate of Wetlands Conformance permit. Following discussion, Kathleen Maxham moved, and Kevin Gumper seconded to approve the applicant's request for a fee waiver, except that the State of Connecticut land use fee is not waived, and to approve the application. Motion passed unanimously.

B. NEW BUSINESS

1. IWP 2003-08, Black Rock Realty, LLC – Status Report/Update by Redniss and Mead Consultant on 3<sup>rd</sup> Train Station: No representatives from Redniss and Mead were available this evening to provide a status report in this matter.

2. Memo from First Selectman Tetreau Regarding Freedom of Information Training: Stanton Lesser encouraged the Commissioners to attend this informational meeting.

3. Monthly Wetland Business Update For The Agency: Informational.

SUPPLEMENTAL AGENDA:

1. IWPA 2011-12-08, Town of Fairfield Parks and Recreation, 2425 Morehouse Highway (H. Smith Richardson Golf Course); Assessor's map 67, Parcel 5: Construct drainage modifications on the 2<sup>nd</sup> Fairway and 11<sup>th</sup> Green within a regulated area: Frank Rice moved, and Kevin Gumper seconded to find this matter non-significant, and to table the matter pending legal notice and departmental review. Motion passed unanimously.

VII. OTHER: None noted.

VIII. ADJOURNMENT: There being no further business to come before the Commission, Kathleen Maxham *moved* and Kevin Gumpper *seconded* to adjourn at 8:21 p.m. *Motion passed unanimously.*

Respectfully submitted,  
Betty Gabriel