

**CONSERVATION COMMISSION
FAIRFIELD, CONNECTICUT
MINUTES OF INLAND WETLAND AGENCY MEETING
MAY 3, 2012**

The Conservation Commission, acting as the Inland Wetland Agency of the Town of Fairfield held a Meeting on May 3, 2012 in Meeting Room II of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT.

MEMBERS PRESENT: Kevin Gumper, Chairman; Catherine O'Donnell, Secretary; Frank Rice; and Kathleen Maxham. **ALTERNATES:** *Note – three vacancies.* **ABSENT:** Elizabeth Jones; Milan Bull, Vice Chairman; and Joan Neiley. Also Present: Thomas Steinke, Conservation Director; Annette Jacobson, Conservation Administrator; Edward Jones, Wetlands Compliance Officer/Open Space Manager; Attorney Austin Wolf, Noel Newman, Assistant 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 Gumper.
- II. **APPOINTMENT OF ALTERNATES:** All three Alternate Commissioner positions currently vacant

Chairman Gumper noted that the meeting agenda would be taken out of order this evening in order to review matters with Attorney Austin Wolf and Attorney Noel Newman, in closed executive session.

At 7:35 p.m. Catherine O'Donnell *moved*, and Kathleen Maxham *seconded* to go into closed executive session, and invited Conservation Staff, Attorney Noel Newman and Attorney Austin Wolf, as there is pending litigation in this matter. *Motion passed unanimously.*

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

1. IWP 2010-11-06, Piekarski & Cocco, Tuller Road and Little Brook Road Subdivision Construction within a regulated area: Civitano v. Town of Fairfield – reviewed with counsel in closed executive session.

2. Sergey Larkin & Eldar Bragg, Fill and Pipe Watercourse Violation at 1157 and 1207 Congress Street (former B. Klanchich Violation) – consider re-initiation of court action: Discussed during closed executive session.

Attorney Austin Wolf left the meeting at 7:43 p.m., during closed executive session.

At 7:58 p.m. Kathleen Maxham *moved*, and Catherine O'Donnell *seconded* to go out of closed executive session. *Motion passed unanimously.* Kevin Gumper reported that no motions had been made or votes taken during closed executive session.

Kathleen Maxham *moved*, and Catherine O'Donnell *seconded* to have the matters on the agenda taken out of order. *Motion passed unanimously.*

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

VI. PUBLIC HEARING

1. IWPA 2011-12-09, Benevolent Protective Order of Elks No. 2220, Inc. (BPOE), 452 Brookside Drive, Corner of Samp Mortar Drive; Assessor's map 123, Parcel 221 – Subdivision construction within a regulated area: Chairman Gumpfer opened the public hearing at 7:59 p.m. Catherine O'Donnell read the call of the hearing. The public hearing was closed at 8:47 p.m. The Inland Wetland Agency did not render a decision on this matter this evening; the matter will be placed upon the June agenda.

III. BILLS AND COMMUNICATIONS

Kathleen Maxham *moved*, and Catherine O'Donnell *seconded* to items A through D below, with the following amendment:

The Meeting Minutes of April 5, 2012 are revised to correct a typographic error on page three - Item V. A, 2, line 8 - replacing the word "will" with the word "with" – to read: "...together with all Standard and Specific Conditions of Approval..." Mr. Rice also noted that the April 5, 2012 minutes reflect that there were two vacancies, and that the Minutes of April 5th should reflect three vacant positions.

- A. Approval of Minutes of Meeting April 5, 2012.
- B. Approval of Recording Secretary's Bill of April 5, 2012
- C. Approval of Minutes of Special Meeting April 19, 2012.
- D. Approval of Recording Secretary's Bill of April 19, 2012.

Motion passed unanimously.

IV. INLAND WETLANDS – LEGAL/ENFORCEMENT ACTION

3. 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. Status Phase 1 – Remediation: Edward Jones advised the Agency that although the April deadline had not been met, this matter is moving forward.

4. New Way Associates, LLC and Dudics (Plant Factory Site), 4184 and 4267 Black Rock Turnpike, Inland Wetlands and Watercourse Violation – Status: Edward Jones advised the Agency that he has been contacted by representatives of the Plant Factory; the owners have agreed to move forward to resolve the pending violation. Communications are on-going.

V. INLAND WETLANDS DELIBERATIVE SESSION

A. OLD BUSINESS

1. IWP 2003-08, Black Rock Realty, LLC – Status Report/Update by Redniss and Mead Consultant on 3rd Train Station: Kevin Gumper advised the Agency that the developer had made revisions to the plan approved by the Inland Wetland Agency. Although initial plans had shown a hotel at this location (directly across the access road from the existing parking lot, along Ash Creek), subsequent plans submitted to Planning and Zoning evidenced the structure as a retail pavilion. The developer is now proposing a five-story residential building with a two-level garage underneath, with a somewhat smaller footprint. If visiting the site, the footprint of the proposed concourse building can be distinguished since it is a different color (grey concrete), unlike the other paved area which is darker. Mr. Gumper noted that the Agency will need to review this matter in the future for consideration as to whether or not this new design would require a new inland wetland permit, or an amendment to the existing permit. Mr. Gumper further indicated that the activities proposed by the applicant will involve some disturbance of the conservation area, including closing the pedestrian walkway during construction (perhaps for a year). Any disturbance within the conservation area will require Commission approval. The Agency will review these issues at a future meeting. Mr. Gumper advised the Agency that the reason the Commissioners have not received any reports recently is because there have not been any in a while due to limited construction activities.

2. Request For Release of Performance Bond:

Kathleen Maxham *moved*, and Catherine O'Donnell *seconded* to release the following performance bond, as recommended by Staff:

a. IWP 2007-08-12, Country Club of Fairfield, Irrigation, Request of Walt Stapleton for final release of \$1,000.00 re: plant survivability.

Motion passed unanimously.

3. Monthly Wetland Business Update For the Agency: Informational. Kevin Gumper noted that Staff has responded to the complaint regarding the back-log of bond releases. The Agency acknowledged the significant increase in certificate of wetlands of conformance applications and limited staffing; Thomas Steinke indicated that Staff's ability to do inspections for bond releases will slow down as other inland wetland work increases. The personnel cuts have impacted Staff's focus on non-wetland matters. Mr. Steinke encouraged Commissioners to give consideration to volunteering their time and effort, perhaps on bond releases.

VII. OTHER:

1. 2012-2013 Conservation Budget Request: Thomas Steinke noted that the RTM is meeting again next Monday night. A two-percent cut is being reviewed for individual budgets. The cuts to the Conservation Commission's budget request will result in a significant reduction in seasonal personnel.

2. Inland Wetland Agency Regulations – revisions: Frank Rice noted that he has made additional revisions to his proposal (regarding easements); Mr. Rice is awaiting comments to his proposed revisions to the regulations.

3. Open Space Trail Guide – Frank Rice noted that he would like to include a listing of the open spaces in the trail book; Mr. Rice sold eight trail guides during the Earth Day event last weekend.

VIII. ADJOURNMENT: There being no further business to come before the Commission, Catherine O'Donnell moved and Kathleen Maxham seconded to adjourn at 9:05 p.m. Motion passed unanimously.

Respectfully submitted,
Betty Gabriel