

**CONSERVATION COMMISSION  
FAIRFIELD, CONNECTICUT  
MINUTES OF INLAND WETLAND AGENCY MEETING  
JUNE 7, 2012**

The Conservation Commission, acting as the Inland Wetland Agency of the Town of Fairfield held a Meeting on June 7, 2012 in Meeting Room II of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT.

**MEMBERS PRESENT:** Kevin Gumpper, Chairman; Milan Bull, Vice Chairman; Catherine O'Donnell, Secretary; Frank Rice; Elizabeth Jones; Joan Neiley; and Kathleen Maxham.

**ALTERNATES:** Letitia Ferguson. *Note – two vacancies.* Also Present: Annette Jacobson, Conservation Administrator; Edward Jones, Wetlands Compliance Officer/Open Space Manager; and members of the public and press.

*Note: the items listed on the meeting agenda for this evening were taken out of order; the item numbering below follows the corresponding position on the actual meeting agenda.*

I. CALL TO ORDER: The meeting was called to order at 7:37 p.m. by Chairman Gumpper.

II. APPOINTMENT OF ALTERNATES: No appointment(s) of alternates.

III. BILLS AND COMMUNICATIONS

A. Approval of Minutes of Meeting May 3, 2012: Milan Bull *moved*, and Elizabeth Jones *seconded* to approve the May 3, 2012 meeting minutes, with the following revision: Page two - Item III, correction of a typographical error to reflect formatting outline of subparagraphs A, B, C, and D. *Motion passed unanimously.*

B. Approval of Recording Secretary's Bill of May 3, 2012: Kathleen Maxham *moved*, and Frank Rice *seconded* to approve the recording secretary's bill of May 3, 2012. *Motion passed unanimously.*

V. INLAND WETLANDS DELIBERATIVE SESSION

A. OLD BUSINESS

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 – public hearing held and concluded May 3, 2012: It was noted that Commissioners Joan Neiley and Elizabeth Jones had listened to the recordings of the meeting and had reviewed the exhibits, and were therefore eligible to vote on this matter. Milan Bull was not eligible and did not participate in voting on this matter. Frank Rice noted his concern that the construction activities may have an adverse impact on the nearby

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

dam. Following discussion, Kathleen Maxham *moved*, and Catherine O'Donnell *seconded* to approve the April 26, 2012 Staff Recommended Findings of Fact A through J, inclusive. *Motion passed unanimously*. Kathleen Maxham *moved*, and Elizabeth Jones *seconded* to approve the application, together with all standard and specific conditions, with a modification of Specific Condition #1 to reflect that no blasting is permitted. In Favor: Kevin Gumpfer, Catherine O'Donnell, Elizabeth Jones, Joan Neiley and Kathleen Maxham. Opposed: Frank Rice. *Motion carries 5-1*. A copy of the decision of the Agency is attached hereto as Exhibit A.

#### SUPPLEMENTAL AGENDA:

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

1. IWP 2006-07-05, Sweeney, South Pine Creek Road, between #985 and #1001. New house construction within a regulated area, Bochanis v. Sweeney, et al. Memorandum of Decision: The Agency acknowledged the May 30, 2012 favorable ruling by Judge Radcliffe in which counsel for the Town of Fairfield (Cohen and Wolf, P.C.) had filed and successfully argued a motion to dismiss the lawsuit for lack of subject matter jurisdiction.

### IV. INLAND WETLANDS DELIBERATIVE SESSION

#### A. NEW BUSINESS

1. IWP 2011-12-01, Lufam Homes, LLC, 64 Fieldcrest Drive; Assessor's Map 77, Parcel 206 – demo house and new house construction within a regulated area. Request for wetland permit modification of condition #2-basement elevation: Annette Jacobson advised the Agency that the applicant is requesting a change in the basement elevation from 149.5 to 149.1 in order to comply with the Town zoning code for a single family dwelling. The applicant's engineer had submitted a letter indicating that the modification would not have any adverse effect. Following discussion, Joan Neiley *moved*, and Elizabeth Jones *seconded* to approve the request for a modification of condition #2 to allow a basement elevation of 149.1, and further required that the applicant submit an interim as-built evidencing the actual installed basement elevation. *Motion passed unanimously*.

At 7:56 p.m. Kathleen Maxham *moved*, and Joan Neiley *seconded* to temporarily suspend the Inland Wetland Agency meeting so that it could conduct the Special Conservation Commission meeting scheduled this evening. *Motion passed unanimously*. The Inland Wetland Agency meeting was reconvened at 8:05 p.m.

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

1. Red 11, LLC, Appellate Court Decision on paying attorney's fees. AC 32720: The Agency acknowledged the Appellate Court decision in which Red 11, LLC is required to pay attorney's fees.

2. Violation – Taylor, 2940 Redding Road: Unauthorized excavation to deepen a watercourse and removal of wetland soil. IWA upheld staff's cease and correct order of March 2011. Continuing review of existing violation. Request for Declaratory Ruling, Taylor, 2940 Redding Road; Assessors map 167, parcel 17-A. Requested activities may include pond maintenance pumping and "ditch" watercourse filling to within 6" of surface with compacted soil: The Inland Wetland Agency acknowledged and accepted the June 6, 2012 letter from James Taylor requesting withdrawal of the petition for declaratory ruling. Annette Jacobson noted that Mr. Taylor anticipates submitting a new request for declaratory ruling.

V. INLAND WETLANDS – DELIBERATIVE SESSION

B. NEW BUSINESS

1. IWPA 2009-10-01, Black Rock Congregational Church, 3685 Black Rock Turnpike, Fairfield – demolish existing parish structures and construct new church parking and drainage structures within a regulated area. Request of William J. Fitzpatrick, Esq. to modify the approval, keeping a portion of the existing church and adding the new church portion in substantially the same location as approved with a somewhat scaled-back plan: Annette Jacobson advised the Agency that the original proposal previously approved by the Agency provided for the demolition of the existing structure and rebuilding of a new church. The applicant is now seeking to utilize a portion of the existing church and to expand upon that structure. Ms. Jacobson further indicated that Conservation Staff is of the opinion that the modified proposal is consistent with the original permit issued by the Agency. Following discussion, Milan Bull *moved*, and Joan Neiley *seconded* to find that the modified proposal is consistent with the inland wetland permit issued by the Agency and that no new application or public hearing is required. *Motion passed unanimously.*

2. IWP 2003-08, Black Rock Realty, LLC – Status Report/Update by Redniss and Mead Consultant on 3<sup>rd</sup> Train Station: Kevin Gumpfer announced that the developer will likely be submitting a modified proposal in this matter. Mr. Gumpfer noted that the existing permit approval included a retail pavilion between the roadway and Ash Creek; the developer is seeking to construct a residential structure in lieu of the retail pavilion. The Inland Wetland Agency would need to make a determination as to whether or not the modified proposal is consistent with the existing permit or whether a new application is required. Mr. Gumpfer further noted that the developer/application will also be seeking approval to go into the conservation easement area, and for the closure of the public pedestrian walkway for approximately 1 ½ years (for safety concerns). The Town's consultant, Redniss and Mead, is currently reviewing the modified proposal. Milan Bull indicated that he would like the Conservation Staff to review and comment on the modified proposal.

Following Mr. Gumper's indication that the portion of the property to be disturbed by the developer/applicant relative to the activities included on the modified plans may not contain any wetland soils, Annette Jacobson reminded the Agency that generally, if any portion of a property contains wetland soils then the entire property is regulated. Also to be considered, generally, is how a change in use from commercial to residential may impact sanitary sewers and the regulated area.

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

### III. BILLS AND COMMUNICATIONS

C. REGULATIONS COMMITTEE – Frank Rice, Chairman: Kathleen Maxham noted that the Probate Court will soon have software that can compare the regulation documents.

VI. OTHER – None noted

VII. ADJOURNMENT: There being no further business to come before the Commission, Joan Neiley *moved* and Elizabeth Jones *seconded* to adjourn at 8:18 p.m. *Motion passed unanimously.*

Respectfully submitted,  
Betty Gabriel