



Inland Wetlands and Watercourses Agency

TOWN HALL * PO BOX 150 * 1019 MAIN ST. * BRANFORD, CT 06405
203-315-0675 * FAX 203-889-3172 * inlandwetlands@branford-ct.gov



MINUTES

Thursday, June 13th, 2019 7:30 PM
Canoe Brook Senior Center
11 Cherry Hill Road, Branford, CT

1. CALL TO ORDER:

Chairman Peter Bassermann called the Regular Meeting of Branford's Inland Wetlands & Watercourses Agency to order at 7:31 P.M.

2. ROLL CALL

Commissioners Present: Chair Peter Bassermann, Richard Greenalch, Eric Rose, Sandra Kraus, Suzanne Botta, Chris Traugh

Commissioners Absent: Rick Ross, James Goggin

Staff Present: Inland Wetland Enforcement Officer Diana Ross, Inland Wetland Staff David McCarthy

3. APPROVAL OF MINUTES:

May 09th Regular Meeting Minutes:

- **Comm. Greenalch** Motioned to approve the Regular Meeting minutes, Comm. Rose seconded, Motion passed (in favor - not in favor - abstained) (6-0-0)

May 06th Special Meeting Minutes | Site Walk | IW#13.06.03 - 47 Gould Lane Sub Division:

- **Comm. Botta** Motioned to approve the Special Meeting minutes, Comm. Rose seconded, Motion passed (in favor - not in favor - abstained) (6-0-0)
- **The Commission** noted a typo on tonight's agenda. The date of the Special Meeting – Site Walk on tonight's agenda reads as May 06th, 2019 and should read as June 6th, 2019.

4. APPLICATIONS WITHDRAWN:

- **IW# 19.04.05 | 21-23 Business Park Drive | Removal of Trees for Billboard Visibility & Wetland Mitigation | WITHDRAWN**
- **The Commission** noted that the Applicant withdrew their application.

5. APPLICATIONS FOR REVIEW:

IW# 19.04.04 | 834-836 East Main St. aka 8 Notch Hill Rd. (Proposed Force Main and Sewer Extension Plan) | Removal of Fill & Wetland Restoration

- **Jim Pretti (Project Engineer)** presented the Commission with the site's plan and noted that that the wetland was filled years ago.
- **Chairman Bassermann** asked how much fill would be removed from the site.
- **Jim Pretti:** a little more than a foot in some parts. He then noted that part of the filled area is now a lawn area.
- **Comm. Botta** asked where the fill came from?

- **Jim Pretti** “That happened before I got involved.” He explained that the fill was used to create additional vehicle access for the facilities and that he did not know if the fill came from on-site or off.
- **Comm. Botta** asked if there was standing water in the area.
- **Jim:** not in the area we are restoring, but there is in the adjacent area. However, that may change in the future because the State of Connecticut Department of Transportation is scheduled to do road work in this area.
- **Comm. Greenalch** reminded the Commission that this application is for a sewer connection.
- **Comm. Botta** asked about the method of removal and to see the revised planting plan.
- **The Commission** reviewed the revised planting plan.
- **EO Ross** stated that there were a few large Multiflora Roses there and made suggestions as to what to replace them with: Elderberries, Dogwood trees.
- **Comm. Greenalch** made a Motion to approve IW# 19.04.04 under the conditions that the Multiflora Roses are removed and replaced with native plants (subject to review by EO Ross), and the planting will be subject to two years of monitorization with a survivability rate of 85%, seconded by Comm. Kraus. Motion passed, (6-0-0).

BR# 19.05.01 | 45 Short Rocks Rd – Supply Ponds | Placement of Concrete Block on the Edge of Pine Gutter Brook to Repair Bridge

- **Ainsley Highman (Chair of Branford’s Parks and Open Space Authority)** informed the Commission that this Supply Ponds hiking trail is heavily used by the public, but the pedestrian bridge crossing the creek is being undermined by an eroding bank. He believes the solution is to place a concrete block in the stream to support the bridge. Then, he presented the Commission with his plan to repair the bridge.
- **Comm. Greenalch** asked if both sides of the bridge’s foundation were intact.
- **Jim Boyd (project carpenter):** we intend to review the other side when we’re there doing the work.
- **EO Ross** suggested that the Commissioners walk the trail to take a look. She noted that the velocity of the stream is increasing and erosion is getting worse over time.
- **Comm. Botta and Comm. Rose** explained that large square blocks might exacerbate the problem by directing water under and around the block and accelerate erosion of the bank.
- **Jim Boyd:** there would be riprap in front of the block.
- **Comm. Botta:** this is a good project and one that needs to be done. However, there needs to be a plan put forth by an engineer: the riprap, placement of the blocks, etc.
- **Comm. Botta:** “Without seeing it on the plan, we cannot evaluate it.”
- **Chairman Bassermann** asked, why not work on both sides now?
- **The applicants** agreed that both should be done at the same time.
- **Comm. Rose:** a square block would be the worst thing to place here and the riprap would not stop erosion. He suggests pouring concrete in place and on-site so that the concrete becomes the bank.
- **Comm. Botta** noted that this is an important project and recommend the applicant obtain a structural engineer so that it’s done right.
- **EO Ross** recommended the Applicant have the engineer look at the diversion pond upstream while they were reviewing this project and put a plan together for the whole project, rather than doing it in smaller parts.
- **Ainsley Highman** reflected upon the added cost to the taxpayers of obtaining an engineer.
- **Comm. Botta** noted that this is probably the most used trail in town. It makes sense for this work to be done, but it requires an engineer.

6. ADMINISTRATIVE APPROVALS ISSUED:

IW# 19.04.02 | After-The-Fact | 71 Midwood Rd. | Vegetation Removal - Installation of a Dry Well & Rock Fill

- **EO Ross** informed the Commission that she approved application IW# 19.04.02

7. OTHER BUSINESS:

IW#13.06.03 | 47 Gould Lane Sub Division | Sediment & Erosion Control | Review of Site Walk

- **Attorney Timothy M. Herbst (Applicant's Attorney)** of Counsel to Cohen and Wolf noted that he was here on behalf of his client, DonMar Development and that he was with Michael DiGioia, Vice President of DonMar Development, and Ryan McEvoy, Lead Project Engineer and Civil Engineer with Milone and Macbroom.
- **Attorney Timothy M. Herbst:** tonight, we will follow up on the site walk and address what's been done since the last time we were before the Commission addressing issues with the site.
- **Attorney Timothy Herbst:** we have reviewed the letter submitted to the Commission by Peter Raymond, President of the Branford Land Trust, dated June 3rd, 2019, and we will be addressing comments made with regard to two key issues: vegetation, and restoration.
- **Chairman Bassermann** asked that the presentation runs through the letter submitted to the Commission from Michael DiGioia dated May 9th, 2019, outlining the 8 steps to be taken to control erosion on the site.
- **Ryan McEvoy (Applicants Engineer) with Milone and Macbroom** presented the site plan to the Commission. He noted that in 2018, citizens were concerned about soil that entered the wetlands. He stated that at that time, Michael DiGioia committed to having an expert scientist review the wetlands and make recommendations for its remediation. Once the site is established, and the wetlands are in the condition to be better evaluated, we will provide that expert opinion.
- **Ryan McEvoy** brought the Commission up to speed with where the site is today, reviewed lots that have been soiled and seeded, and pointed to a retaining wall that has been built. There are lots that have been untouched and they now appear to be stable with vegetation growing on them. Over the past few weeks, there have been significant improvements made to the site that increases its ability to withstand larger storm events.
- **Ryan McEvoy:** currently, there's ongoing construction on lots 15, 9-14, and a fair amount of mass earthwork on lots 10-13 to establish the slope. Stabilization of those slopes will take place once the earthwork is complete so construction can begin.
- **Ryan McEvoy:** we are requesting that the silt fence behind the level spreader be removed because it's reducing its effectiveness and no longer providing any value. Once vegetation takes hold behind lots 1, 2, and 3 we will be requesting the removal of the sediment and erosion control devices there.
- **Ryan McEvoy:** reviewed grading and seeding on all disturbed areas.
- **Ryan McEvoy:** Michael DiGioia and DonMar Development are requesting that administrative approval be allowed for the construction of future lots (11 and 12): to get construction moving and the sites stabilized sooner.
- **Ryan McEvoy:** going back to the meeting from October 2018, once soil erosion measures are no longer needed, we will review the impacts made to the wetlands and determine the level of silt to be removed.

- **Ryan McEvoy** reviewed progress made on the 8 items listed on Michael DiGioia's May 9th letter. He walked the Commission through each line item and stated that "based on this letter, they've completed the tasks at hand."
- **Chairman Bassermann:** how do we know that the designed erosion control measures in place will work effectively?
- **Ryan McEvoy:** I am monitoring them for repair and maintenance weekly. If we notice anything we mark it in a report.
- **Comm. Rose** shared that it was his understanding, that the wetlands were directly polluted by silt coming from the level spreader out of the large silt pond.
- **Ryan McEvoy:** what you see coming out of that basin is not silt, its turbid water.
- **Comm. Rose** noted that when turbid water dries out, silt is what's left behind.
- **Ryan McEvoy** shared that the cloudy water exiting the site is due to the nature of the soils on the site and will be significantly mitigated once vegetation is established around the basin.
- **Comm. Rose:** the turbidity is not given enough time to fall out in the basin, so it's reaching the level spreader and entering the wetland. "It isn't working, that's a fact." "How is that going to get resolved?"
- **Comm. Rose** noted that there is roughly 18 inches of silt in the pond already, and that it's not given enough time to settle out.
- **Ryan McEvoy:** yes, there is a decent amount of silt in there right now and we will remove it. And yes, having additional volume will aid in the dropping of suspended solids. We will be recommending that shortly when we can get an excavator in there without causing a lot of disturbance. Then, he noted that vegetation is going to be the best way to reduce the turbidity of water leaving the site.
- **Comm. Rose** noted that if the site was not prematurely stripped of vegetation a year ago, and left bare for a year, that these problems would not exist. All of this could have been stabilized a long time ago. The erosion is not going to stop. The problem is that a large area of the acreage was left raw and things that were supposed to have been done quickly after the land was cleared, weren't. Now, we're all worrying about what's going to happen every time it rains.
- **Comm. Rose:** we haven't seen a plan to mitigate and eliminate the risk of silt from entering the wetland. How are we going to get to that?
- **Ryan McEvoy:** Were seeing grass starting to grow, that's a huge step in the right direction. I am not going to make excuses for the past. Today, we're here to talk about how were going to move forward.
- **Comm. Greenalch:** there has been good work done there, but the land has not been stabilized yet. I am concerned. One rainstorm could wipe out all the work you've done. Before I take action, I want to wait and see what happens with the vegetation. Let's hope that what has recently been done, will hold.
- **Comm. Botta:** how long should it take for the vegetation to create an erosion-free environment?
- **Ryan McEvoy:** a month.
- **Comm. Botta:** the water coming out of the silt fence behind the retention basin was completely brown. What if we're not stable in 4-5 weeks? What's your plan B?
- **Ryan McEvoy** reviewed the list of improvements made to the site: topsoil, hydroseed

- **Comm.Botta:** how are you going to stop filling the wetland? It is actively happening right now. What is it that you're going to do to stop it from happening? If this does not work in 5 weeks, what's plan B?
- **Ryan McEvoy** plan B is to double down on efforts to reestablish vegetation.
- **Comm.Botta:** what does doubling down look like?
- **Ryan McEvoy:** reseed it.
- **Comm.Botta:** when?
- **Ryan McEvoy:** we'll keep at it.
- **Comm. Rose** stated that there is no benefit to removing any silt controls at this point.
- **Ryan McEvoy** disagreed, and argued that the silt fence downgradient of the level-spreader is detrimental at this point. It's not filtering the water, it's rising up and spilling over and streaming out into the wetlands. By eliminating it, it will flow in a quiescent manner.
- **Comm. Rose:** to take that away is to say that whatever comes out of the level-spreader will go levelly, into the entire wetland.
- **Ryan McEvoy** informed the Commission that they're not seeing a significant amount of sediment retained by the silt fence.
- **Comm. Rose:** "we were there, I saw an oil sheen on the water."
- **Comm. Botta:** "what we saw at the site walk does not work with what you just said."
- **Comm. Botta:** "if the solution is not a silt fence, what is your plan B?"
- **Comm. Botta:** "this is not working, you are filling the wetland every day and our job is to make sure that does not happen."
- **Comm. Botta** asked Ryan for an engineered solution to stop filling the wetland.
- **Ryan McEvoy** the silt fence does not serve the purpose of filtering out the microfine particles that you have in turbid water.
- **Comm. Botta:** explained that she understood that, and asked for their solution knowing the size of the particles.
- **Ryan McEvoy:** there are two solutions, vegetation and floc logs. Floc logs filter microfine particles. However, they are difficult to work with, heavy, and require an excavator to get down there. Doing this might cause more trouble and disturbance.
- **Ryan McEvoy** I think the best way to handle this is to do what they've been doing so far: revegetating the site.
- **EO Ross** suggested wide woodchip berms with filter fabric. You need a big filter there.
- **Ryan McEvoy** stated that he does not think it would reduce the turbidity.
- **EO Ross** stated that she suggested floc logs many times, but they were never installed.
- **Chairman Bassermann** asked Ryan what was contained in his weekly inspection reports.
- **Ryan McEvoy** walked the Commission through his reporting process.
- **The Commission** asked about how he determines if the water is clear or not.
- **Ryan McEvoy:** if we see silt leaving the site, or system failure, we note it.
- **Comm. Botta:** how do you determine if the water is clear?
- **Ryan McEvoy:** visual.
- **Comm. Botta:** do you collect a sample?
- **Ryan McEvoy:** no.
- **Comm. Botta:** are you contesting that sediment going into the wetland is not from the site?
- **Ryan McEvoy:** no.

- **Chairman Bassermann:** they're asking for permission to move ahead with some of the other properties. At this point, I do not have the confidence to allow more development on the site until this area can be stabilized.
- **Comm. Rose** asked Ryan if he ever noted turbid water leaving the site and entering the wetland on any of his reports.
- **Ryan McEvoy** "if we observed it, it would be in the report." He noted that he did not have his reports with him.
- **Comm. Botta** asked for future maintenance reports to include the use of a turbidity scale, and not to just eyeball if the water is clear or not.
- **Comm. Rose** asked if EO Ross if she visits the sites after each rain event.
- **EO Ross:** I was depending on the reports, but I can do that.
- **Comm. Greenalch** suggested another site walk to see if the vegetation takes hold.
- **Attorney Timothy Herbst** noted his concern from a liability perspective; that any injuries that may occur to members of the public on the site are not covered by DonMar's insurance. He asked for controls to be put in place for members of the public.
- **Comm. Botta** asked if this question can be put forth to the Town's Attorney.
- **Attorney Timothy Herbst** noted if members of the public take it upon themselves to go on the site, that it's a problem.
- **Comm. Botta** if it's not a meeting, we don't have control.
- **Attorney Timothy Herbst** noted that he was concerned for his client's due process: members of the public making observations when no one is there, and then sharing them with the Commission.
- **Chairman Bassermann** noted that the Commission will talk to the Town's Attorney.
- **Peter Raymond (President of Branford Land Trust (BLT))** noted that the BLT has been observing issues on the site since April, 2018. He stated that the BLT concurs with the Commission: this all stems from having cleared too much land at once.
 - Shared that the letter he sent to the Commission contained the BLT's set of reasonable demands.
 - Shared that the BLT has lost confidence in Milone and Macbroom; moving forward they would like to see an independent set of eyes throughout the process.
 - Noted that State of Connecticut regulations require turbidity measurements to be done when more than five acres of land gets cleared; this has not been done.
 - Regarding remediation: the BLT believes the best thing might be to wait a year, then have an independent report written to see what needs to be done.
 - The BLT would like to see money bonded to secure the possibility of remediation in the future.
- **Comm. Greenalch** questioned the Commission: unless the developer is willing to pay for the independent review, can we order an independent contractor?
- **Chairman Bassermann:** the current bond held with the town is for work on-site and would not cover off-site remediation. We've checked with the Town Attorney.
- **The Commission** discussed bonding.
- **Peter Raymond:** this could be something we work out with DonMar ourselves.
- **Michael DiGioia:** asked the Commission if it had an issue with him working out a mitigation plan directly with the BLT.
- **EO Ross:** the Commission would need to review the mitigation plan.

- **Michael DiGioia:** at that point, if the BLT is uncomfortable, we can authorize some type of surety.
- **Attorney Timothy M. Herbst:** noted that he would like to meet with the town's attorney about this to address what's been discussed and to make sure the Town Attorney is on board with these legal proceedings.
- **The Commission** decided to have a Site Walk of 47 Gould Lane on Wednesday, July 10th at 5:30 PM.
- **Comm. Greenalch** noted that the site walk will be open to the public.
- **Attorney Timothy M. Herbst:** noted that he will speak with the Town's Attorney regarding his concerns. He mentioned the possibility of having a waiver at the meeting.
- **Chairman Bassermann** asked EO Ross if she felt comfortable monitoring this activity without the need for an independent agency, or if she thought that it would be something that helps the process.
- **EO Ross:** I think it helps the process.
- **The Commission** discussed adding a consultant as an extension of the Commission, the need to look further into this, and to not take any action tonight.
- **Michael DiGioia** noted his concerns for hiring an additional consultant.
- **Comm. Greenalch** noted that he'd like to wait till after the Site Ealk before he makes his decision on an additional consultant, and wants to get advice on if the Commission can impose an additional cost on someone.
- **The Commission** discussed the Regulations and its ability hire outside consultants.
- **Comm. Botta:** we need a scope on what we're talking about for Diana to draft a request for proposal. We can't do anything if we don't have a proposal to go forward with.
- **Comm. Rose** agreed and stressed that time is of the essence because the wetland is filling with every rain event. In the meantime, let's add an expectation that staff can get onsite after each rain event to get a moment by moment assessment: greater detail is critical.
- **Comm. Rose:** we should be requesting that they immediately retain their own consultant for a remediation plan, that hopefully, only involves what has happened and not what happens from here on out.
- **Comm. Rose:** as for the scope, we can use Milone and Macbroom's checklist as a starting point and add weekly turbidity tests that notes what basins it occurs from, as well as weekly inspections downgradient of the discharge points that have already occurred just in case there's a new discharge occurring.
- **Comm. Rose** There are additional measures that could be taken below the level spreader. We should be getting a proposal from them on what additional measures are going to be added to what's already been designed to deal with discharges, however turbid or not. We should see that proposal quickly.
- **Comm. Rose** noted that water going off-site and into the catch basins down the road (which drain into the wetland) may have not been part of the reporting. They seem to be contributing to the problem: discharging very turbid water into the wetland.
- **The Commission and Ryan McEvoy** discussed water that leaves the site.
- **Comm. Rose:** we should revisit the original permit regarding the catch basins.
- **Chairman Bassermann:** we should review Regulations regarding large sites.

Staff Update on Fee Schedule Research and Analysis:

- **David McCarthy** updated the Commission on his fee schedule research and analysis report, and noted that it may be ready by next meeting.
- **David McCarthy** suggested that the Commission hold a Special Meeting, one where all Commissioners can be present to discuss changes to the Regulations.
- **The Commission** discussed making changes to the Regulations.
- **Chairman Peter Bassermann** asked that the Commission receive the report prior to the Special Meeting for review.

Staff Update on Permit Application Fee Reduction Form:

- **David McCarthy** informed the Commission that the new fee schedule should be able to resolve the need for a form that calculates fee reductions.
- **David McCarthy** suggested having a form that acts as a check/place holder for applications of 100% remediation work.

Staff Update on the Farm River Watershed National Water Quality Initiative

- David McCarthy updated the Commission on the Farm River Watershed National Water Quality Initiative.

ITEMS ADDED TO THE AGENDA:

- **Comm. Botta** made a Motion to add 509-545 East Main Street to the agenda, Motioned passed (6-0-0).
- **Jim Pretti** reviewed the site plan and showed the Commission where Pyramid real-estate group cleared vegetation from a wetland and possibly made a stone trench.
- **Jim Pretti** stated that they want to replant the wetland.
- **Jim Pretti** sought clarity on how to proceed: is this a new app or an enforcement action? Is this residential or commercial and what's the fee?
- **EO Ross:** I prefer that we go through the regular permit process.
- **EO Ross:** we need to see a plan to show where the vegetation and pad are going to go.

8. CORRESPONDENCE & ANNOUNCEMENTS

9. ADJOURNMENT:

- **Comm. Botta** made a Motion to adjourn the Regular Meeting of Branford's Inland Wetlands & Watercourses Agency at 9:42 P.M., Comm. Rose seconded, Motioned passed (6-0-0).

Respectfully submitted,



David E. McCarthy