

Inland Wetlands Agency

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

SPECIAL MEETING
APPROVED MINUTES

Wednesday, August 30th, 2017 at 4:45 PM
Canoe Brook Senior Center
11 Cherry Hill Road, Branford, CT

RECEIVED
2017 SEP 21 P 4: 22
TOWN CLERK'S OFFICE
BRANFORD, CONNECTICUT

Present: Peter Bassermann, Rick Ross, Richard Greenalch and Eric Rose.
Absent: Suzanne Botta, Jim Goggin, Sandra Kraus, James Sette and Mark June-Wells.

Staff Present: IW Agent Diana Ross, IW Assistant Jaymie Frederick and Town Council William Aniskovich

Chairman Bassermann called the meeting to order at 5:04pm. All Commissioners present seated.

IW#17.07.05 – 250 & 244 North Main St – Peer Review Status

EO Ross stated that there was some confusion about the funds required for the peer review. There were actually two fees. Need to go through and review and confirm acceptance of peer review proposal if appropriate. Also need to discuss outstanding fee and request for fee reduction and the request that the application fee be used for the peer review. The engineering review was well under way when realized what was going on, soil scientist was told to wait.

Commission discussed that they are ok with engineering portion.

EO Ross stated that they may want to reaffirm that in any decision that is made.

Chairman Bassermann asked if there is any controversy with the \$5,500 for the wetland review.

EO Ross stated that they have the request that it be taken out of the application fee. Still holding the application fee check. The application fee check is not the correct amount; short \$360 for the public hearing and DEEP fee. They have submitted revised plans that reduce impact and requested a fee reduction. Commission needs to determine what applicant owes for the application and peer review.

Comm. Greenalch stated that since the Commission committed to Codepsoti as the engineering firm, thinks that they should go forward with the wetland scientist at \$5,500. That is a little more than the other quotation, however, the Commission didn't make decision based strictly on cost, based upon qualifications and such. Application fee is a unique situation because the project has previous approval a couple of years ago. Would like applicant to address that issue.

John Schmitz, civil engineer with BL Companies working on the project. Missed the last meeting where the third party consultant was obtained; thinks that train has already left the station, need to move forward. Revised plans were submitted to make some changes to the wetland impacts for the project which resulted in less impact. Prior to the changes they had submitted a letter requesting that the commission consider a reduction as this is the second go around/phase II. Now given that there is a third party looking at it, some of the consultant work will reduce burden on staff.

Rick Ross asked about phasing.

BL Companies Schmitz stated the Commission previously only approved Phase I. The phases do overlap to some extent.

EO Ross stated Phase I was so that people could come in and look at the site.

Commission discussed reduced fee amount presented by applicant. Asked if there are savings to staff.

EO Ross stated that there are some savings but it is not the whole thing.

Comm. Rose pointed out that staff costs are fixed.

EO Ross clarified that the peer review funds are separate from the application fee.

Comm. Rose stated the Commission should require a revised application fee page.

Commission discussed the revised 19,453 fee.

Atty. Aniskovich stated that while in the realm of discretion, any reduction made, absent some reasonable basis the reduction would be subject to legal infirmity. There are no actual staff saving because the staff labor cost is what it is. Currently the record doesn't provide any non-arbitrary basis for making a reduction on the 19 [19,453 fee] if it ties out to the revised plan. Would advise the Commission legally the best thing to do is set the fee at the 19.

Comm. Greenalch asked if there is any overlap on what was done and what is being reviewed again.

EO Ross doesn't think so with the engineering, possibly with the wetland review.

Comm. Greenalch motioned to approve the hiring of Environmental Lands Solutions LLC of Norwalk, CT to do the environmental and wetland issues part of the peer review. Comm. Ross seconded. Comm. Rose stated that they reaffirm that the \$5,850 is still approved as originally approved and they are adding to that the \$5,500. Comm. Greenalch amended his motion to state that the Commission reconfirms the approval of Codespoti Associates approval, Comm. Ross agreed to the amendment. Motion passed unanimously (4-0-0).

Atty. Aniskovich reviewed regulation 19.7 that gives the commission authority to waive all or part of the application fee. When exercising discretion, absent of some reasonable basis that is part of the record, the Commission has a potential legal problem. Caution the Commission to grant discretionary reductions in fees only when there is very clear evidence that supports it.

Chairman Bassermann stated that the Commission agrees with the 19 number.

EO Ross stated that she has not calculated the number.

Comm. Greenalch motioned to deny the applicant's request for reducing the fee without prejudice. Comm. Rose stated that he thinks that is a misunderstanding. There are two levels of a request for a reduction; the first from 23 to 19 which has been substantiated, but the request to reduce it from there may be arbitrary. Since the form is not filled out, and it doesn't need to be approved today, then why don't they ask for the form and approve at the next meeting. Atty. Aniskovich stated it would be appropriate to move to accept the 19 subject to staff confirmation. EO Ross stated because it is a change in the process thinks the Commission should vote on revised fee. Comm. Greenalch motioned that the fee can be reduced because of the changes in the application with the appropriate amount to something in the range of 19,000 and change, exact number to be confirmed. Comm. Ross seconded. Motion passed unanimously (4-0-0).

Chairman Bassermann stated as it stands tonight \$19,453.13 is the number.

EO Ross stated that they will need the \$5,850 quickly.

Chairman Bassermann stated that the revised application sheet needs to be submitted to support the \$19,453.13.

Comm. Greenalch motioned to adjourn the meeting at 5:34pm, Comm. Rose seconded. Motion passed unanimously (4-0-0).

No other business was conducted

Respectfully Submitted,



Jaymie Frederick, Inland Wetland Assistant