



# Inland Wetlands and Watercourses Agency

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## MEETING MINUTES

Thursday, January 09, 2020, 7:00 PM  
Joseph Trapasso Community House  
46 Church Street, Branford, CT

### 1. CALL TO ORDER:

**Chairman Peter Bassermann** called the Regular Meeting of Branford's Inland Wetlands & Watercourses Agency to order at 7:00 P.M.

### 2. ROLL CALL:

**Commissioners Present:** Chair Peter Bassermann, Richard Greenalch, Chris Traugh, Rick Ross, James Goggin, Suzanne Botta

**Commissioners Absent:** Sandra Kraus, Eric Rose

**Staff Present:** Inland Wetland Enforcement Officer Jaymie Frederick, and David McCarthy

### 3. APPROVAL OF MINUTES:

- **Commissioner Goggin** Motioned to approve the December 12th Regular Meeting Minutes, Comm. Greenalch seconded, Chairman Bassermann noted that on page 2, second paragraph, line "public comment would start with a minute limit each," and should read as 5 minute limit each, Motion passed (in favor - not in favor - abstained) (6-0-0).
- **Commissioner Greenalch** Motioned to approve the January 04th Special Meeting Minutes (Site Walk), Comm. Ross seconded, Motion passed (6-0-0).

**Chairman Bassermann** noted that there will be some changes to tonight Agenda:

- IW# 19.11.01 | 1151 West main St | Bank & Grocery Store, will be moved up and be Heard before,
- IW# 19.10.02 | 779-803 East Main St. & 21 Sycamore Way | Laboratory Building

**Comm. Botta** made a Motion to add an item to the Agenda, IW#20.01.02 | 63 Gould Lane | Construction of New Single Family Home, Comm. Ross seconded, Motion passed (6-0-0).

- **EO Frederick** informed the Commission that the Applicant is requesting that the application be process through Administrative Approval.

### 4. OTHER BUSINESS:

- IW#13.06.03 | 47 Gould Lane Sub Division | Sediment & Erosion Control
- **EO Frederick** informed the Commission that the Agency's Received correspondence from the Branford Land Trust (BLT) regarding erosion issues on site, as well as reports from the Permittee and a letter in response to the BLT letter, which was Received today.
- **The Commission** took a few Minutes to review the correspondence.
- **Peter Raymond – President** of the BLT read the letter submitted to the Agency from the BLT, dated November 20, 2019, received on January 09, 2020.
- **Chairman Bassermann** read the letter submitted to the Agency from Malone and Mcbroom (MM), dated January 09, 2020, received on January 09, 2020.

- **Chairman Peter Bassermann:** Does the land trust have any issues with the recommendations from Milone and Macbroom from the letter read aloud?
- **Peter Raymond:** We've been told things before, would like no further building and/or construction until it's demonstrated that the site is stable.
- **The Commission** discussed the matter of coming into compliance with original permits vs. not by lot. They determined that there is precedent.
- **Comm. Botta:** we need to go back more closely to review the case of Riverwalk. They were not in compliance, a Notice of Violation and Cease and Correct were issued and they had to desist all construction activities until they came in compliance with the original permit, not the individual lot.
- **The Commission** noted that there was a precedent set in the past and requested that Staff go back and look.
- **The Commission and Peter Raymond** discussed the statutory authority to enforce a third party review on behalf of the permittee after the permit has been issued and asked staff to investigate this regulation/statue.
- **Comm. Botta:** In the past, this is conducted at the onset of the application, not once it's underway.
- **Ryan McAvoy - Engineer with Malone and Macbroom** representing this project spoke to Permittee Michael DiGioia, of DonMar Development's interest in working with the BLT and the Town to clean up the wetland, even materials deposited prior to work conducted under this permit. Mr. DiGioia is agreeance to have the wetlands monitored, evaluated, and recommendations for remediation be put forth.
- **Peter Raymond:** we are asking that that monitoring be done by someone other than MM, we feel as though there a conflict of interest in this particular case.
- **Lauren Brown:** we would like construction to be halted.
- **EO Frederick** cautioned the Commission about permit predetermination on an Application. She stated that she spoke with Town Council on this matter, "it would be challenging to deny a permit based on the site conditions of another permit." However, we could take enforcement actions if the Commission determines that it's appropriate.
- **The Commission and EO Frederick** discussed the matter.
- **EO Frederick** recommended this be brought to town council.
- **Bill Horne:** asked about the request for third party review. "Is it the position of the Commission or Town council that the evaluation of encroachment on to Land Trust property, which was not included on the original application still considered to part of the originally approved activity, because it's coming from that lot?" In the past, these were new applications.
- **Comm. Botta:** yes, it would be when an application is put in. At that point, the Commission can obtain a third party reviewer.
- **The Commission and Bill Horne** spoke to the scope and responsibility of on a remediation application, and the future third party reviewer.
- **Johnathan Catz – Land Trust Board Member** informed the Commission that this issue has come up on their agenda every month for almost two years. The runoff is continuing to carry sediment into these wetlands and it's going to pour this weekend. It's going to happen again. "When the sediment goes into the wetland it's there forever." He encouraged the Commission to act, and to make sure that this development wok does not violate inland wetland law.
- **The Commission** asked if there was a short term erosion control solution that would greatly reduce the sediment flowing into the wetland, like the floc logs that were proposed by MM.
- **Ryan McAvoy** informed the commission that MM has recommended the use of floc logs with a polymer used in drinking water applications in the catch basins, but the Land Trust has not permitted their use. He noted that is not a long term solution, but it will help.
- **Comm. Botta** asked why they were not installed.
- **Ryan McAvoy** informed the Commission that the BLT raised opposition to their installation.

- **Peter Raymond** spoke to their opposition of the floc logs: noting chemicals compound exposures in wetlands and resonance time.
- **Ryan McAvoy:** we recommended putting them in the basins, that about 120 feet from the wetland.
- **Chairman Bassermann and EO Frederick** discussed seeking town council, when putting together meeting with the BLT, DonMar, and Staff to further discuss this matter.

## 5. APPLICATIONS FOR RECEIPT:

### IW#20.01.02 | 63 Gould Lane | Construction of a New Single Family Home

- **Ryan McAvoy** introduced the plan
- **EO Frederick** spoke to the plan, for Lot 19, highlighting the grade and stormwater outfalls, and that the closest inland wetland is a higher grade than the lot.
- **Comm. Botta:** “This site is a mess, we need to be very judicious as we go through and site applications.” She stated that she is not inclined to advance this site for administrative approval.
- **Chairman Bassermann** agreed with Comm. Botta. The application was received tonight.

### IW#20.01.01 | 16 Sybil Creek Place | Invasive Species Management Services

- **Luke Johnson of All Habitat Services** introduced the application and scope of invasive species remediation (bittersweet and autumn olive). He noted that it’s not within the inland wetlands, the work benefits the environment, and asked if he could answer any questions.
- **Chairman Bassermann** asked if it was simulator to Juniper Point.
- **Luke Johnson:** this is all mechanical and no chemical, no native species will be removed on the .171 acre site.
- **Luke Johnson** asked for a fee reduction.
- **The Commission and Staff** discussed the fee reduction, citing section 19.07.a of the Inland Wetland Regulations.
- **Chairman Bassermann:** we want to encourage activity like this, let’s go with the precedent set by Juniper Point.
- **Comm. Botta** made a Motion to Authorize Application IW#20.01.01 for Agent Approval for this Application, and that its Town inland wetland fee will be matched to that of the Juniper Point Application, Dick seconded, Motion passed (6-0-0).

## 6. PUBLIC HEARINGS:

### IW# 19.11.01 | 1151 West main St | Bank & Grocery Store

- **Attorney John Knuff,** requested a continuance of the Public Hearing to the IWC February Meeting, to give the Applicant time to meet with the third party reviewer and have the engineers resolve a lot of issues quickly.
- **EO Frederick** spoke to the remaining funds available for the third party consultants.
- **The Commission** discussed the applications timeline, extensions, and available funds.
- **David McCarthy** raised a comment of accessibility brought to the Agency by the third party reviewers. He informed the Commission that the consultants had to exit the property and trespass before reentering the property in the rear to visit the wetland. He asked if the Applicant can make the rear wetland area accessible to the Commission without need to trespass, or they can get permission from the abutter to walk their property.
- **Attorney John Knuff** agreed that accessibility is important and stated that he will work on this tomorrow.

- **Several Members of the Public** spoke aloud, requested to know more about the application and expressed frustration about waiting till February.
- **Comm. Botta** informed the Public that any information that the Applicant wants present to the Commission has to be on the record no later than 5 days prior to the Public Hearing. She then noted that complex applications require a third party review to best inform the Commission as to not solely rely on the expertise of the applicant's engineers and soil scientist. She stated that the third party review then informs the Commission and the applicant, which will generate changes to the plan. So, it's best for all the changes be made prior to the...
- **Members of the Public** Interrupted the Comm. Botta
- **Attorney John Knuff** addressed the Public and noted that he will make himself available in the hallway to review the plans and reports. He and members of the Public conversed about the application process and timeline.
- **Chairman Bassermann** addressed the Public, noted procedure.
- **Korey Evasic of 43 Home Place** asked where and when the Public can get information regarding this application.
- **The Commission:** all materials are due 5 days before the meeting and are available for review at Town Hall.
- **Corey Evasic:** we just don't know and there's fear.
- **John Knuff:** informed the Public that he will set up a meeting with folks in the neighborhood if that helps.
- **Comm. Botta** informed the Public of the technical limits of the Commission and its needs to rely on third party reviews. She then walked the Commission through the public hearing process.
- **Town Staff informed** the Public to reach out should they have any questions or want to review any materials.
- **Comm Botta:** informed the Public as to the purpose of the Site Walk, and noted that it's open for the Public.
- **EO Frederick** notified the Public that if they wish to know more about the intervener process, to contact the Inland Wetlands Office.
- **The Commission** set a site walk for Saturday, Janruray18<sup>th</sup> for 10:00 AM, at 1151 West Main St.
- **Comm. Botta made a Motion** to Continue the Public Hearing for IW Application 19.11.01 to the next IWC's next Regularly Scheduled meeting, Thursday, February 13, 2020, here at the Joseph Trapasso Community House, 46 Church Street, Branford, CT, starting at 7:00 P.M., Commissioner Greenalch seconded the Motion, Motion passed (6-0-0).

The Commission took a short recess

#### **IW# 19.10.02 | 779-803 East Main St. & 21 Sycamore Way | Laboratory Building**

- **Chris Gagnon – Engineer (BL Companies) on Record for this Project:** introduced the application and summarized the past month of activity on the project. He noted that this access path was not chosen by the applicant, but that it was chosen by the Town many years ago, and that services will come down this proposed Town Road.
- **Chris Gagnon:** we submitted new grading and drainage plans, and that this type of access was approved by this Commission in the past, possibly 2002.
- **Chris Gagnon** stated that this application proposes just over four thousand square feet of inland wetland impacts on the 120+ acre site, we are directly impacting .26% of the wetlands on this site
- **Chris Gagnon** the majority of the wetlands on the site are not impacted by the proposed development.

- **Chris Gagnon** cited the Town’s planning and zoning regulations, noting that it locks in the parking and building location in respect to the site.
- **Comm. Botta:** why is the building not proposed more north?
- **Chris Gagnon** the hope that this proposed building will have a 20,000 sq. ft. addition heading north.
- **Comm. Botta:** can you start the building further north?
- **Chris Gagnon:** explained why they couldn’t.
- **Chris Gagnon** informed the Commission that BL took in comments from the third party reviewer, and BLT, and are contemplating a new location of the mitigation area to a meadow area that would require a lot less tree clearing. He noted that the construction of the Mitigation is poses almost as much as a threat to the stream as not doing the mitigation. He cited the Town’s zero loss inland wetland loss policy. “I don’t want to create wetlands that hurt the stream.” We are more than willing to work with the Commission, Land Trust, and Pier Reviewer to come up a mitigation plan and location that will benefit the watershed.
- **David Lord – Professional Soil Scientist of Soil Resources Consultants** out of meridian, CT representing the Applicant informed the commission of types of wetlands and recourses on the site.
- **Comm. Botta:** noted that there was scouring and undercutting on both sides of the watercourse.
- **David Lord:** this watercourse receives flashy waters from storm events.
- **Comm. Botta:** as the scouring continues, with 30-foot-wide box culvert on both sides, will the box culvert be impacted by the by the progression of the undercutting and will it might or might not impact the evolution of the bank.
- **David Lord:** It’s not going to increase the erosion. He then spoke to the reshaping of the bank to a stable slope upstream and downstream of the culvert.
- **Chris Gagnon** the depth of flow for the hundred year storm is 2.3 feet, based on the width of the channel, its barley over the tops of the banks at the hundred year storm event. He noted that there are plenty of ways to reinforce the banks, and that this is the better area to cross the watercourse because it’s not meandering and looks pretty established.
- **Chris Gagnon:** in our opinion, the 30 foot box culvert is plenty large enough to allow for slight movements in the stream after the construction.
- **John Mancini – Senior Principle of BL Companies:** the shaded area of the box culvert is being counted as impact wetlands. He noted that because under the culvert will be shaded, that it should be stabilized and shaped with hard surfaces, not plants.
- **Comm. Botta** spoke to quality of the water quality, and its ability to support indicator species; we don’t want to muck around in it.
- **John Mancini:** the reason for larger span is to allow for stream migration.
- **David Lord:** this is the preferred method that results in the least amount of watercourse impacts.
- **The Commission** discussed the plan, limits of the right away, and limits of disturbance.
- **Comm. Ross** questioned the area of proposed fill along the road side, that’s runoff from Sycamore Way.
- **John Mancini:** informed the Commission that this project was not build to its entirety, when built, and runoff ditches were created. The runoff ditch along the side of the road would be piped, and channeled into a discharge and plunge pool.
- **Chris Gagnon:** spoke to the plan to pipe the storm drainage, and dissipate the flow with a riprap plunge pool next to the stream and inland wetlands.
- **Comm. Botta:** it would not be great to abruptly discharge this mucky water into the clean stream.
- **Chris Gagnon** stated that he believes that what was proposed will offer better scrubbing than the existing conditions.
- **John Mancini** noted that BL met with the BLT regarding the sites development on Monday, January 06, 2020. The plans were changed, and sent to the BLT tonight at 5:00. He asked:
  - o 1. Can he present the Plans, even though they were not submitted to the Agency?
  - o 2. How do they fund the consultant, to unsuspend review?

- **3. Can we schedule a Special Meeting?**
- **EO Frederick** asked if they would be able to submit a copy of the plans tonight.
- **Chris Gagnon:** yes, and I can email copies tomorrow.
- **The Commission, and the BLT** granted the applicant permission to present the new plans
- **Chris Gagnon:** presented the new plan (exhibit number 20), and the new grading plan (exhibit 21).
- **Chris Gagnon** shared that the test pits were conducted on Tuesday, and shared the results.
- **John Mancini:** as part of the discussion with the BLT on Friday, they're contemplating the idea of entertaining fair market appraisals of the property, and potentially committing to limit development to the upland pads, the rest of the property could be sold as open space land (exhibit 23).
- **Comm. Traugh** stated that in his experience, having "future developments" on the plan constitutes it as part of the application.
- **John Mancini** stated that they'll take it off.
- **The Commission and Staff** discussed funding and scope of work for consultant's past and present work.
- **Chairman Bassermann** made a Motion to amend the peer review funding for an additional \$3,500 to incorporate plans submitted on January 9<sup>th</sup>, and subsequent meetings/work, Comm. Botta Seconded, Motion passed (6-0-0).
- **Peter Henschel** informed he commission that he is for this project, if an environmentally correct way can be developed, referencing materials within exhibit 19, letter sent to the Agency by Kate Galambos.
- **John Mancini** addressed Peter's concerns and the two spoke to the development regulations involved in for the driveway and retaining walls in the plan Peter presented. "It won't need to be an extension of the Public road."
- **Kate Galambos** asked the Commission about the 5 day time period for which materials had to be presented to the Agency before presented at the Public Hearing. The 5 days was not respected by the Applicant at the last Public Hearing, and information was restricted, but today it's the same situation, that's where the community is frustrated.
- **Kate Galambos:** stated it sounds like the Applicant is manipulating the process.
- **Pam Roy** told the Commission project is still in the upland review area.
- **Chairman Bassermann:** asked what the issue of being in the upland review area was.
- **Pam Roy:** stated that she does not understand how they can grade the area without damaging the wetlands. She handed out her statement (exhibit 22).
- **Chairman Bassermann** stated that the point on the 5 days is well taken. He stated that the Commission will pay more attention to the 5-day limit to getting information to the Agency. He informed the Public that they're under statutory timeframe and they needed to get the information out.
- **Comm. Greenalch:** spoke to the public in regards to the complexity of the application and that they need
- **Pam Roy** stated that the only land left to develop in Branford has Problems, and that applications in the future will all have these issues.
- **Comm. Botta** made a Motion to continue IW 19.10.02 to A Special Meeting on January 30<sup>th</sup> here at the Joseph Trapasso Community House, 46 Church Street, Branford, CT, starting at 7:00 P.M., Commissioner Greenalch seconded the Motion, Motion passed (6-0-0).

## 7. OTHER BUSINESS CONTINUED:

### **IW# 19.10.01 | 21 Summit Place | Multi-Story Building & Storm Water Retention Basin: Discussion Regarding Permit Conditions**

- **EO Frederick** informed the Commission that the boilerplate Conditions for this Permit were not set, and handed out a draft permit with Conditions.
- **The Commission** reviewed the permit and discussed its Conditions.

- **The Commission and staff** discussed the application of bond.
- **D McCarthy** asked if there was monitoring.
- **Comm Botta:** we want to make sure that the plantings remain at an 85% survivability rate and if something should occur, that was not taken care of in the way that it should, that we have a means of recourse to make sure that the vegetation is in place, so I think it's best to leave it in.
- **EO Frederick:** leave it as Agency or inland wetland Agent?
- **Comm Botta:** and/or, and yes, keep in the control of invasive species.
- **The Commission** concurred on the Conditions for the Permit, and the request for a bond.
- **The Commission** discussed making future approvals and condition setting.

8. **ADJOURNMENT:**

- Chairman Bassermann, made a Motion to adjourn the Regular Meeting of Branford's Inland Wetland & Watercourses Agency at 10:12 P.M., Comm. Botta Seconded, Motion passed, (6, 0, 0).

Respectfully Submitted,



David E. McCarthy