



Inland Wetlands and Watercourses Agency

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Special Meeting Minutes

Meeting was held remotely, via ZOOM in accordance with [Executive Order 7B](#) part 1
Thursday, April, 23, 2020, 6:00 PM

CALL TO ORDER:

- **Chairman Peter Bassermann** called the Special Meeting of Branford's Inland Wetlands & Watercourses Agency to order at 6:02 P.M. He provided an opening statement noting tele-meeting protocol, Executive Order 7b requirements, and asked all attendees to state their name before speaking.
- **Inland Wetland Agent Jaymie Frederick** reviewed Zoom software features.

ROLL CALL:

Commissioners Present: Chair Peter Bassermann, Suzanne Botta, Steven Sullivan, Eric Rose and Clarice Begemann; Sandra Kraus joined at 6:31 PM

Commissioners Absent: Richard Greenalch, Rick Ross

Staff Present: Inland Wetland Agent Jaymie Frederick, Inland Wetland Assistant David McCarthy

Chairman Bassermann asked if there was any Commissioners present that needed to recuse themselves from tonight's deliberations.

Commissioner Begemann recused herself.

DELIBERATIONS:

IW# 19.11.01 | 1151 West Main St. | Bank & Grocery Store

- **Chairman Bassermann** opened with a statement that summarized the Application's history and timeline. He noted that, should the Commission conclude its deliberations tonight, it will ask Staff to consolidate its discussion into a document to be reviewed at a subsequent Meeting. If the Commission does not conclude deliberations tonight, it will ask the Applicant for an extension. He referred the Commission to the minutes from the April 09th Regular Meeting, the boilerplate Conditions, as well as a document prepared by Town Staff (Staff Notes for Possible Conditions).
- **IW Agent Jaymie Frederick** walked the Commission through the 9-items on the document, *Staff Notes for Possible Conditions*, and noted that they are a compilation of notes from the Commission's deliberations and staff's review of the application.
- **Comm. Botta** noted that should a motion arise, it needs to include language specifying how the Agency found that there was not a feasible and prudent alternative, and why the Commission would approve fill in the wetland. This is important for our historical practices of applying the rules and regulations fairly and uniformly.

- **The Commission** revisited the Minutes from the April 09th meeting and reviewed its discussion of section 10.2 of the Town Regulations.

IW Regulation Section 10.2 A

- **Commissioner Rose** noted that his prior characterization of a watercourse being important or unimportant is not consistent with the Statues. He stands by his comments of the proposed mitigation.
- **The Commission** discussed the location of mitigation area.
- **Comm. Rose:** they chose the single best place for mitigation.
- **Commissioner Botta** the proposed mitigation is appropriate for what they're seeking to do. She took issue with the filling being the only feasible and prudent alternative. She shared that the bank's location not being where they want it does not rise to the level of not feasible. She does not object to the proposed mitigation.
- **Chairman Bassermann** polled the Commissioners to see if they thought they sufficiently addressed section 10.2a
 - **Comm. Rose** is satisfied with the discussion of this section
 - **Comm. Botta** is not satisfied with what they've offered as being the only feasible and prudent alternative, in comparison to the Commissions history. Outside of that, she's satisfied with the discussion of this section.

6:30 – Commissioner Kraus arrived

IW Regulation Section 10.2 B

- **The Commission** discussed the plan of development: the location of the buildings, as well as its prudent and feasible alternatives.
- **Comm. Rose** spoke to the Application's prudent and feasible alternatives and noted that the Commission's focus is on the proposed regulated activities and what might be prudent and feasible related to it, not the tenants of the proposed building.
- **Commissioner Botta** noted the distinction of what an applicant wants to do, vs. what's prudent and feasible.
- **Chairman Bassermann:** asked Town Staff to recall the peer reviewer's comment on the building's location.
- **IW Agent Jaymie Frederick** noted that the peer reviewer's initial comment was that an alternative tenant could make this location more appropriate. The peer reviewer informed the Commission that it's up to it to determine if it agrees with the applicant, that this is not prudent. At the last meeting of the Public Hearing, she thinks the peer reviewer's largest concern was the location the grocery store and infiltration system relative to the containments. She noted that the peer reviewer was satisfied with a set of new plans that proposed an over excavation of the contaminates soils.
- **IW Agent Jaymie Frederick** read the definition of Prudent from the IW regulations.
- **Chairman Bassermann:** based on that definition, I can't figure out the economic side, I don't think we have evidence of that in the public hearing.
- **Comm. Rose** stated that it's his interpretation that the economics are those associated with the regulated activities, not the development project.

IW Regulation Section 10.2 C

- **The Commission** had nothing more to discuss.

IW Regulation Section 10.2 D

- **Commissioner Bassermann** noted Staff captured this concern in item 5 of the document Town Staff sent out, regarding the potential dewatering concerns of watercourse 1.
- **IW Agent Jaymie Frederick** requested clarification from the Commission regarding the two sentence possible Condition: one report, or continuous monitoring.
- **The Commission** decided on continuous monitoring.
- **The Commission** discussed language that can be used to make a Motion.
- **Comm. Rose:** with the request to monitor watercourse 1, he discussed what will happen to watercourse 1 during construction. He said that he expected them to dry it out to undertake the work and that there will not be much to report on because they will need to keep it dry while the site is developed.
- **IW Agent Jaymie Frederick:** informed the Commission that the proposed plan is to set up a berm across the watercourse to separate the two areas: removed and remaining. The applicant has submitted documentation that suggest they can blast and not dewater the watercourse. Reports over time can show a better picture of how the watercourse may or may not be impacted.
- **Comm. Rose** stressed his thoughts about there being no water in watercourse 1 during construction.
- **Comm. Botta** asked if Comm. Rose's thoughts were his beliefs, or something the Commission can review from the record. If it's not in the record, we can't take them into consideration for this application.
- **Comm. Rose** stated that it was his professional opinion.
- **The Commission and Staff** reviewed the discussion that took place during the Application's Public Hearing regarding the possibly of fissures from blasting creating an irretrievable loss of watercourse 1. It referred to documents submitted by the applicant (exhibit 56).
- **Chairman Bassermann** polled the Commissioners to see if they thought they sufficiently addressed section 10.2d.
- **Comm. Rose** stated that he was satisfied.

The Commission revisited section 10.2b

- **Chairman Bassermann:** the Applicant has demonstrated the appropriate feasible and alternative associates with 10.2b for this application.
- **Comm Rose** stated that he was fine with that.
- **Comm. Botta** recommended the Commission to discuss why fill in this case, fill would be appropriate and how it's in line with the Commission's fair and uniform practices within the Town of Branford.
- **The Commission** debated the term filling.
- **Comm. Botta** referenced section 22.a – 36 of the State Statues.
- **Chairman Bassermann** restated his thoughts — it would appear, regarding section 10.2b that the applicant has demonstrated appropriate feasible and prudent alternatives, per 10.2b, and that the solution as presented by the applicant (alt.4, the final modification of alt.3) satisfies the requirement on section 10.2b.
- **Chairman Bassermann** polled the Commissioners to see if they thought they sufficiently addressed section 10.2b.
- **Comm. Rose:** yes

- **Comm. Sullivan:** yes
- **Commissioner Bassermann** asked Comm. Kraus if she reviewed miss materials and felt as though she was able to vote this evening.
- **Comm. Kraus:** yes, I have.
- **Comm. Kraus:** I am in agreement with the motion
- **Comm. Botta:** yes
- **Chairman Bassermann** asked IW Agent Jaymie Frederick if she was able to draft a Resolution based off the Motion and Commission support.
- **Comm. Botta** asked if the 9 points of potential Conditions, as drafted by Town Staff, would be converted into Conditions of Approval, in addition to the Motion.
- **IW Agent Jaymie Frederick:** yes, these were possible Conditions. She asked if the Commission wanted any language modifications.
- **IW Agent Jaymie Frederick** asked the Commission to satisfy each section on the record, and assess what Conditions of Approval it would consider?
- **The Commission** decided to add all 9-points to the draft Resolution.
- **Chairman Bassermann** asked Staff to put the information discussed tonight in a document to reviewed at a to be scheduled meeting.
- **The Commission and IW Agent Jaymie Frederick** discussed the boilerplate Conditions, and how the Staff's 9-document pulls from it and Commission's deliberations.

Chairman Bassermann made a Motion for Town Staff to prepare a document, for Commission to review at a to be determined date, regarding IW# 19.11.01, 1151 West Main St. Bank & Grocery Store, Comm. Botta Seconded (5-0-0), Motion Passed.

- **The Commission** decided to continue the deliberations to its next Regular Meeting, May 14, 2020 at 7:00 PM.
- **Attorney John Knuff** stated that he would grant the Commission an extension and would follow up with an email.
- **IW Agent Jaymie Frederick** asked for clarity for the document to be created by Town Staff.
- **Comm. Botta:** asked for the text to go out to the Commission before the next meeting, so they can read it.

1. **ADJOURNMENT:**

- **Commissioner Botta** made a motion to adjourn the meeting of Branford's Inland Wetlands & Watercourses Agency at 8:00 P.M., Commissioner Kraus seconded, motion carried unanimously.

No other business was conducted.

Minutes initially drafted by Inland Wetland Assistant David McCarthy, modified and submitted by Inland Wetland Agent Jaymie Frederick to comply with filing times

Respectfully Submitted,
Jaymie Frederick