

**East Hampton Inland Wetlands & Watercourses Agency
Regular Meeting
September 30, 2009
Town Hall Meeting Room**

Unapproved Minutes

1. **Call to Order:** Chairman Foran called the meeting to order at 6:31 p.m.

Present: Chairman Jeffry Foran, Peter Wall, Dean Kavalkovich, David Boule, and Marc Loran.

Alternate Member Maureen Heidtmann and Scott Hill were present.

Absent: Josh Wilson

2. **Seating of Alternates:** Maureen Heidtmann and Scott Hill were seated

3. **Approval of Minutes:**

A. **August 28, 2009:** *Mr. Loran moved, and Mr. Hill seconded, to approve the minutes of the August 28, 2009. The motion carried unanimously.*

4. **Agent Approval:**

10 Hyde Farm Terrace- Mr. Foran met with the owner and advised the agency that a portion of the home will be in the upland review area. The owner Mr. Demar will have erosion controls in place at time of construction.

31 East High Street- Mr. Foran reported on there are blocks that are going to be installed in addition to some trees that will be planted. There is no work directly in the water and hay bails will be in place.

Mr. Foran approved both of these applications as agent reviews and held a \$1500 bond for each.

5. **Communication, Enforcement, and Public Comment:**

Communications:

2009 Municipal Inland Wetland Commissioners Training Program Segment 3 was discussed and if anyone is interested in attending please contact the building department.

Enforcement:

Mr. Hayden reported on a Notice of Violation that was issued to an individual that placed a large boulder in an outlet stream to Loos Pond. Mr. Hayden has had discussion with the individual who has agreed to remove the boulder in an appropriate manner.

Mr. Hayden reported on a Notice of Violation that was issued to 31 Old Marlborough Road for the storage and use of topsoil on his property.

Public Comments:

Tom Wells, North Main Street, provided the agency of a survey that was completed on the subject property from the 1980's for review. There was review of Mr. Wells property and an abutting neighbor that appears to be brining in fill and dumping it onto the property. Mr. Wells at this time pointed out to the neighbor the wetlands. Mr. Wells then contacted the town office and scheduled a meeting with Mr. Hayden. Mr. Hayden did not feel it was within the jurisdiction of the agency to issue a Notice of Violation due to his visit to the property showed stable yard with a lawn and a garden. Mr. Hayden felt he was not present for the activity therefore any enforcement action needed to be taken by the agency. Mr. Hayden felt that acting on a 20 year old map after the fact by months; he was unable to issue any violation. Mr. Foran asked if it looked as though fill had been placed. Mr. Hayden stated yes at some point but it was difficult to take action and defend that to a successful conclusion. Mr. Hayden spoke to Mr. Flannery and he advised Mr. Hayden that he created some landscaping on his property. Mr. Kavalkovich stated it not of the agency to decide if this is wetlands or not, the question is whether the agency can decide that there has been fill put in the area that has been delineated as wetlands. In order to do this the agency would need to know where the property boundary is and would need to know the flagging of the wetland to see if there is filling into the wetland. There was discussion on accepting a 20 year old wetland survey especially when there has been construction around the area of the subject property. Mr. Kavalkovich stated that this agency needs two pieces of evidence in order to peruse an enforcement act; 1. Has fill been placed in this area marked as a wetland? 2. Is there evidence to show that activity has been done recently within the upland review area adjacent to this wetland? If there is evidence of either of these two items there is a base for enforcement action. Mr. Hill expressed his concerns of the inability of identifying it as a clear wetland, so without the wetland being flagged, how does the agency know what to tell the violator to remove.

Mr. Foran moved to direct the IWWA enforcement officer Keith Hayden to issue a Notice of Violation that due to fill placed in the wetlands as per the delineation on the map that was submitted. The motion was seconded by Mr. Wall.

Mr. Kavalkovich stated he felt it should be conditional on some on site inspection that there has been some material placed on the side of the boarder close enough to the pins so show it is in the wetlands. The agency then discussed that fact of the matter of placing a Notice of Violation on a property that the agency is not 100% sure about.

Mr. Foran withdrew his motion and Mr. Wall withdrew the 2nd.

Since the Inland Wetlands Watercourse agency does not have the resources to gather further evidence that is need to make a decision and enough information they decided to direct this issue to the towns' attorney for an opinion. Mr. Foran directed Mr. Hayden that once an opinion is received by the attorney, contact Mr. Wells. Further discussion will take place at the next regular scheduled meeting.

6. **Reading of the Legal Notice:** None.

7. **New Application:** None

8. **Continued Applications:** None

9. **Public Hearings:** None

10. New Business:

A. Election of Officers

Mr. Hill moved and Ms. Heidtmann seconded to elect Mr. Foran as Chairman and Mr. Wilson as Vice Chairman of the Inland Wetland Watercourse Agency. The motion carried unanimously.

**B. Town staff as Agency for the IWWA – Email Attorney Brooks
(ATTACHMENT)**

Mr. Hayden read into the record an email received from Attorney Brooks regarding town staff as agent for IWWA.

Mr. Hill moved and Mr. Boule seconded to appoint Keith Hayden to the position of the Duly Authorized Agent for the Inland Wetland Watercourse Agency, effective October 1, 2009. The motion carried unanimously.

C. DRB Handbook

Mr. Hill provided the members of the agency with a copy of the DRB Handbook draft for their review and asked if any comment or suggestion. If after the agency has a chance to review and at that point has any comments please forward them to Kerry Nielson, Director of Community & Environmental Planning at knielson@easthamptonct.org

11. Old Business:

A. **TMDL Study:** The IWWA requested that the towns attorney and Dr. Wagner be asked to come before the IWWA for further discussion.

B. **Fertilizer Ordinance;**

C. **Update 46S Main Street Violation:** Valid permit remains, awaiting crossings

D. **Update on 217 E High Street Violation** Some progress has been made removing the fill. Mr. Hayden will continue to monitor

12. Public Comments:

Tom Wells, North Main Street stated his concern is this is going to go on long into the winter. Mr. Foran stated there would be something for Mr. Wells by the next meeting. Mr. Wells also expressed some concerns on activity in the wetlands on Rt 66. Mr. Hayden will investigate and report back to the agency.

13. Adjournment:

Mr. Kavalkovich moved to adjourn the meeting. Mr. Lorah seconded the motion. The motion carried unanimously. The meeting adjourned at 7:56PM

Respectfully submitted,

Kamey Peterson
Recording Secretary