

Town of East Hampton  
**Inland Wetlands and Watercourses Agency**

**Show Cause – Special Meeting**  
September 17, 2015 – 6:30 P.M.  
East Hampton Town Hall Meeting Room

**DRAFT MINUTES**

**Present:** Chairman Jeff Foran, David Boule, Harold L'Hote, W. Dean Kavalkovich, Peter Wall, Joshua Wilson

**1. Call to Order:** The meeting was called to order at 6:30 P.M. by Chairman Foran

**2. Seating of Alternates:** Harold L'Hote was seated as an alternate

**3. Enforcement:**

**A) Cease and Desist Order:** 135 Middle Haddam Road (M02/B18/L21-1E), Peter Minoli and David Wezdenko; Activity in Wetlands/Upland Review Area to repair a pipe to an underground spring on 136 Middle Haddam Road.

Thomas Cronan, Attorney for Peter Minoli & David Wezdenko, stated for the record that Christina Soulagnet was enormously helpful to him this day. He also stated that he is not exactly sure why he is at the meeting as he does not think his clients did have or do still have any intention to do anything that warrants a cease & desist order. It is his feeling that the land right use should be decided elsewhere. An infrastructure on his client's property may have fallen into disrepair and he sees no reason that he can't come to the Agency with an open book to show what needs to be done. A small piece of wetlands may need to be disturbed to fix a pipe if his clients have the legal right to do so.

Mr. Wilson explained the situation as such for those members not present at the last meeting: There is a spring at 136 Middle Haddam Road (the Throckmorton property) that the owners of 135 Middle Haddam Road, which is across the street, may or may not have rights to use the water coming from the spring. The owners of 136 Middle Haddam Road claimed activity occurring other than just drawing water from the spring, such as possible permanent activity at the spring house. They want to make sure there is no activity going on that needs to be permitted.

Atty. Cronan stated that the valve to the spring pipe had been off, when it was to be turned back on, a leak was suspected. Mr. Minoli had gone there with shovels to look with no intent to violate the wetlands. Mr. Minoli then summarized more background on the dispute. He stated that the spring water is to be used for lawn irrigation, not as the main water to the house as the house now has a well. At one time, the spring was used as the main water to the house.

Mr. Wilson referenced both sections 4.1d and 4.1f of the Wetland Regulations. These sections state (in regards to Permitted Uses as of Right and Nonregulated Uses):

4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:

d. uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot size permitted anywhere in the municipality (provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres) and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposit of significant amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.

f. maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes, or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this section, "maintenance" means the removal of accumulated leaves, soil, and other debris, whether by hand or machine, while the pipe remains in place.

Ann Peters, Attorney for the Throckmortons, owners of the property at 136 Middle Haddam Road, stated that there was a concern because it already appears as if some pipes have been replaced. She handed photos of the pipe in question to the Agency members. Her clients are concerned about Mr. Minoli drawing water down from the wetlands. Especially if they are diverting the water, replacing the pipe, pouring concrete slab, disrupting the wetlands and the hydrogeology of the area as they feel the spring could be drained by Mr. Minoli using the surface water for irrigation. Atty. Peters states that her clients would like to see any work done in the wetlands come with the proper permit. She asks that there is a commitment going forward that nothing be done without Mr. Minoli coming before the committee with plans and description of the work and what water will be drawn.

When Mr. Wilson asked if everyone was in agreement that the spring house is in wetlands, an aerial map was produced and the parties looked at it together. Mr. Wilson stated that he feels comfortable that the spring is in the wetlands, but the question still remains, under regulations 4.1d or 4.1f if it is an as of right of use. When asked if he poured any concrete or did any electrical work Mr. Minoli stated that he had not.

Atty. Peters stated that there had been no flow through those pipes for over a decade since a well had been put in at 135 Middle Haddam Road, so water has not been being drawn from the spring.

After general discussion over whether Mr. Minoli may have right of use, and how this matters to the IWWA, Mr. Minoli stated that he has a letter from a previous Attorney (Atty. Giuliano) stating that he and Mr. Wezdenko do have rights to the water in question, with a reference to the deed stating this. Atty. Peters disputed whether the right continues after such a long time, and also because Mr. Minoli would be using the water for a different intention. She acknowledged that this was a legal dispute that will need to be resolved by title companies or perhaps the court; not something to burden this Agency with, but it's still an open question.

IWWA members discussed that Mr. Minoli & Mr. Wezdenko will need to finalize that they have the right of use first before coming before the Agency to get permits for any needed work. Discussion occurred about whether they could still do some work while the cease & desist order was in place. It was stated that the cease & desist would keep them from performing regulated activities, but not from going to the site and doing a minimal amount to make a plan as to what work would need to be done.

**A motion was made by Mr. Wilson, and seconded by Mr. Kavalkovich to keep the cease and desist order in place until the respective legal rights of the parties is determined, at which time of a rights determination, the owners of 135 Middle Haddam Road come back before the Inlands Wetland and Watercourses Agency and identify what they would like to do as a plan moving forward. Voted 6-0 in favor.**

**4. Adjournment:** A motion to adjourn was made by Mr. Wilson and seconded by Mr. Wall at 7:36 P.M. Voted 6-0 in favor.

Respectfully submitted,

Eliza LoPresti  
Recording Clerk

