

**CITY OF TORRINGTON
INLAND WETLANDS COMMISSION
MINUTES
September 15, 2009**

Present: Jay Bate, Jr., Chairman
Nancy Schroeder Perez, Vice Chairwoman
Jane Bakker, Secretary and Member
Doris Murphy, Member and Planning and Zoning Liaison
Kathy Carlson, Member
Tom Telman, Member

Also Present: Kimberly Barbieri, Inland Wetlands Enforcement Officer

Not Present: Christine Altman, Member

1. **Call to Order:** Chairman Jay Bate called the meeting to order at 7:00 p.m., Sullivan Senior Center, Main Room, 88 East Albert Street, Torrington, CT

2. **Roll Call and Announcement:**

Chairman Bate announced present and serving this evening will be Nancy Schroeder Perez, Jane Bakker, Doris Murphy, Kathy Carlson, Tom Telman and Jay Bate, Jr. Also present is Inland Wetlands Enforcement Officer Kimberly Barbieri.

3. **Minutes for Approval:**

- a. 8/18/09

MOTION by Ms. Perez to approve the 8/18/09 minutes. seconded by Ms. Bakker, motion carried with abstentions from Mr. Telman, Ms. Carlson and Ms. Murphy.

4. **Executive Session :**

- a. Discuss current litigation.

Going into Executive Session are: Corporation Counsel Ernestine Weaver, Jay Bate, Nancy Schroeder Perez, Doris Murphy, Jane Bakker, Kathy Carlson, Tom Telman, Kim Barbieri, Bill Colby, Ron McCarthy and Perly Grimes.

Partial APPROVAL of preliminary site development plan for establishing one new lot for Ensury LLC. MOTION by Ms. Bakker to accept the Settlement Plan B for that parcel with conditions, motion unanimously carried.

5. Old Business:

- a. Applicant: AJK, LLC
 Location: Winsted Road, Assessor Map 236 - 1 - 10 & 11
 Activity: Storm drainage discharge, earth excavation site

Dennis McMorrow with Berkshire Engineering and Surveying appeared representing the applicant. Mr. McMorrow agreed with Ms. Barbieri's comments, with the exception of item #5 regarding repositioning the detention basin on the east side of the site because if the Local Business parcel is approved, every two years the site approval/special exception process will come up. He is in agreement with the other comments. This is a renewal of the wetlands permit obtained five years ago. There is a culvert that goes under Winsted Road that discharges into Troy Brook which triggers a regulated activity. There are no actual wetlands on the 17 or 18 acre site that he is presently operating as a rock quarry. Maps were referred to.

Ms. Barbieri explained how other local quarries are doing their wetlands renewals to coincide with the Planning and Zoning renewals. If something has changed on the application, Ms. Barbieri brings it before this Commission. If nothing has changed, Ms. Barbieri issues an Agent Determination. This one has a change and will be issued with a two year approval to coincide with Planning and Zoning applications/approvals.

MOTION by Ms. Perez to GRANT a permit for the subject application, seconded by Ms. Bakker, motion carried.

- b. Applicant: AJK, LLC
 Location: Winsted Road, Assessor Map 236 - 1 - 9
 Activity: water service connection in road, construct drive for scale and trailer for adjacent quarry, upland regulated area

Dennis McMorrow with Berkshire Engineering and Surveying appeared representing the applicant. This proposal is a for a trailer and weigh station. The Troy Brook is the regulated area, and the water main connection is on the southeast side of the road. The water quality sedimentation system will connect into the same system that is discharging off the quarry. The trailer and scale will be set up, the map was referenced.

MOTION by Ms. Bakker to GRANT a permit for the subject application, seconded by Ms. Perez, motion carried.

- c. Applicant: Noah Johnson
 Location: 32 Grove Street
 Activity: Fill portions of backyard within upland regulated area.

Ms. Barbieri explained this was at the July meeting, there were no comments at that time. Mr. Johnson believed he had approval at that time and did the work.

MOTION by Ms. Perez to GRANT the permit for the above referenced application, seconded by Mr. Telman, unanimously carried.

- d. Applicant: Taco Bell of America
Location: 1795 East Main Street
Activity: Construct Taco Bell Restaurant with associated grading, drainage and paving within upland regulated area and discharge to a wetland

Ms. Barbieri noted the applicant has contacted her to request the matter be tabled to resolve drainage issues.

MOTION by Ms. Perez to table this application, seconded by Ms. Bakker, unanimously carried.

- e. Applicant: Mountaintop Trucking, Tom Iffland
Location: Winsted Road, Assessor Map 242 Block 3 Lot 1
Activity: Process earth products from construction jobs, within upland regulated area

Passed until after public hearing. Applicant not present.

- f. Applicant: City of Torrington
Location: Naugatuck River, East and West Branches and main stem.
Proposal: Bank clearing for phase 2 of the Flood Control Project per Army Corps (public hearing closed)

Ed Fabbri, City Engineer, appeared before the Commission available to answer any questions from Commissioners regarding the application pending.

Ms. Perez inquired what would happen if the Commission denied this application. Mr. Fabbri responded they would have to go back to the Corps and explain they do not have a permit to do this work. Ms. Barbieri noted the DEP would step forward at that time and compel the City to do the work, or the DEP will issue the permit. This is part of Dam Safety and Water Resources.

Mr. Fabbri explained if we ignore it and continue down the road, we will have a FEMA issue, and the area would be rezoned as flood areas, and that would cause much hardship. A good approach is to amend the document prepared 50 years ago requiring the City to do this work. Political help could be obtained to open the door to amend that document.

Ms. Barbieri noted the plan presented shows the trees that are coming down, stumps over four inches being removed per Army Corps standards. Phase I was herbicide treatment and not much put back. Ms. Barbieri would like to see for a full approval from this Commission is a full restoration plan that goes along with this plan that would show what kind of seed mixtures, where will lower shrubs be placed, where will be areas that overhang and put together what our best settlement plan would be, will the Army Corps meet part way and work on it. If that doesn't work, we can take it to Congress and what we would be asking for wouldn't be extreme and our particular situation is unusual in that they are not true levies. A true levy holds back water from something, ours is not

that way, there is a tiny berm at the top of our streambank and what is regulated, but they regulate the whole side of the streambank.

Mr. Fabbri sees both sides, and likes Ms. Barbieri's plan to get the manual changed. At this point, he is trying to get a 'yes' or a 'no'. Discussion followed. Ms. Barbieri stated the best thing is to table and perhaps Jeanette (from Milone and MacBroom) can come in and we can work on getting a restoration plan that we can all sign off on.

Ms. Perez said or we could just say 'no'. Ms. Barbieri did not recommend a no, as she does not want to put down anything that say we are unwilling to work with them because we are willing to work with them. We need to find a midway point. Ms. Barbieri asked for a table, and she would write up a list of conditions and go over it with Mr. Fabbri and Mr. Rollett and bring it before the Commission at the October meeting.

MOTION by Ms. Perez to table the subject application, seconded by Ms. Bakker, unanimously carried.

7. **Public Hearing Scheduled for September 15, 2009, 7:30 p.m., Sullivan Senior Center, 88 East Albert Street, Torrington, CT**

- a. Applicant: Torrington Senior Living LLC
Location: 1058 Litchfield Street at Newbury Brook
Proposal: Grading and construction of groundwater recharge system within upland regulated area associated with the construction of a senior living facility (public hearing continued from 8/18/09)

Ms. Barbieri distributed updated plans received yesterday. Ms. Barbieri recommended the public hearing remain open in case there is anyone in the audience who has not reviewed this new material, as it just arrived yesterday.

Ms. Barbieri distributed her memo to the Commission written today. A memo written today by City Engineer Ed Fabbri was also distributed. Ms. Barbieri distributed the executive summary for Newbury Brook Watershed environmental team review report done in April 1990.

Ms. Barbieri had a few housekeeping items to take care of, those Commission members not at the public hearing last month received CDs of the public hearing. Ms. Murphy has not finished listening to the cds. Ms. Carlson has not finished listening to the cds. Mr. Telman received the cds and is finished listening to them.

Ms. Barbieri stated there was some inadvertent contact through an e-mail with Sean Hayden. Sean Hayden is normally someone we can contact as a staff person, but in this case he is a neighbor involved with this application. If a Commission member received an e-mail from Sean and read it please note. Ms. Barbieri asked Commissioners to note for the record if they read the e-mail, can they or not, hear this application without bias. Ms. Bakker said she is OK with it. Ms. Carlson stated she can hear it without bias. Ms. Perez stated she did not get an e-mail. Mr. Bate stated he can hear the application without bias. Ms. Altman is unable to attend this meeting tonight as she is caught in traffic, and she had already indicated she would recuse herself this evening.

Attorney Peter Herbst of 365 Prospect Street appeared representing the applicant. His associate Jim Steck appeared as last month's meeting. (Tape #1, #900). Also present tonight are the principals of Torrington Senior Living LLC, Joe Roche, Mrs. Roche, and Steve Marcus. Last month Ken Hrica, engineer appeared who will also appear this evening. Ed Pollock, wetlands scientist will appear. Rosemary Aldrich, landscape architect will appear this evening. At the first hearing, neighbors raised questions regarding impacts on wells and groundwater in general. David Murphy, hydro geologist, will appear.

Mr. Herbst reviewed that Steve Marcus and he met with Dan Lester, President of the Heritage Land Trust last week, followed by a meeting of the Heritage Land Trust. At the Trust meeting, Mr. Lester indicated he thought the land trust would want to have an easement over approximately a six acre parcel, which is the Newbury Brook and all of the wetlands on the side of the brook. A map was provided by Mr. Hrica showing the area of the conservation easement. This covers the western most portion of the property. A letter dated 9/11/09 from Mr. Lester was submitted for the record also, indicating the trust is willing to accept the land. The Land Trust would like to consider passive recreation in the way of a nature trail on the parcel. A nature trail would be put before this Commission for approval at a separate time.

Mr. Herbst submitted Ken Hrica's credentials for the record.

Kenneth Hrica, professional engineer and licensed land surveyor, 82 West Street, Litchfield, appeared before the Commission, with a presentation (#1100).

Mr. Herbst reviewed Ed Pollock's background and submitted a resume for the record.

Mr. Pollack reviewed a letter (referencing comments of Penelope Sharp from the first application) written by Mr. Brian McDonnell at last month's meeting. Mr. Pollack responded to those concerns. A state of the art stormwater management system has been designed by Mr. Hrica. A portion of the roof of this subject building will be constructed as a green roof, which will reduce the amount of run off. Copies of his report were given to Commission members.

Ms. Barbieri asked for a definition of "earthwork" that will be done July through September. (#2450) Mr. Hrica / Mr. Pollock will respond at a later point.

David Murphy, hydro geologist with Milone & MacBroom, appeared. A resume was submitted for the record. Mr. Murphy presented diagrams and responded to concerns previously expressed at the last public hearing. Details of the site were presented. A report of his findings was supplied to the Commission.

Rosemary Aldrich of Insight, Canton, CT, site planning, landscaping, etc. appeared before the Commission. Mr. Herbst submitted her resume. (#3600) Ms. Aldrich appeared and presented her findings. She stated the type of plastic for the trays for the green roof are made from 100% preconsumer recycle high molecular weight polyethylene, they have been protected with UV inhibitors and stabilizers. Details of the plastic were given by Ms. Aldrich. Ms. Aldrich would prefer not to add rain gardens to the cul de sac islands. She has had bad luck with rain gardens in parking lot situations in

parking areas surrounded by pavement. We want to get water out of the driveway area as soon as possible and treat it elsewhere. Ms. Aldrich said Mr. Hrica is looking for impeccable drainage around these islands, so if we grade to make an area for a rain garden, we will end up with a vicious cycle of inundation and draughtiness making it difficult for plants to survive in this situation. She has tried this in similar parking areas and not had good luck. A green island is planned. Other landscaping features of this proposal were reviewed by Ms. Aldrich. Ms. Aldrich supplied a report of her findings to the Commission.

Chairman Bate opened the hearing to the public. Margerie Booth appeared and voiced opposition to the project. (Tape #2, #300) She stated she is not happy with where the service driveway or building will be located. This plan is not fair to her or the neighbors, and with all the brains here and lawyers etc. this project does not really belong in that little neighborhood and she is against it.

In response to a question, Ms. Barbieri explained how she oversees the sites once construction starts. She tries to be a good liaison for the community.

Brian McDonnell appeared before the Commission and reviewed past projects for this area, in reference to the Kings Marks Study prepared. (#539) Mr. McDonnell read portions of the report. He asked Commission members to carefully consider the Kings Mark Study before voting on the matter. Mr. McDonnell reviewed the length and height of the numerous retaining walls, and why are so many retaining walls necessary? Instead of solving problems, the developer seems to be creating new problems. His final thoughts were the proposed senior living center must not be looked at in isolation, it is a vital link to the entire watershed itself, the effects of this project will be irreversible and an environmental disaster. It is clearly unsuitable for the area proposed and is overly ambitious with the limitations that exist. He asked the Commission to deny the proposal.

An unidentified male voiced concerns about the negative impacts on the environment. As a plumber, he provided information that his mother's well is 110 feet, not 40 feet. The water table appears to be dropping. He invited Commission members to his house for a better viewing of the area. Numerous wildlife exists in this area, including a mountain lion and a cub.

Sean Hayden appeared and questioned where the groundwater was coming up from, where is the source for that groundwater?

David Murphy provided responses to questions about the well pump depths, he did not mean to imply the well was 30 or 40 feet, that is the dept of the bedrock. In reference to Mr. Hayden, the source of the water, a good way to figure out the source of the water is to figure out the water level in the casing, details were provided by Mr. Murphy (#1153) referencing the maps.

Mr. Bate stated the public hearing will be continued to next month. MOTION by Mr. Telman to table the subject application, seconded by Ms. Bakker, unanimously carried.

- e. Applicant: Mountaintop Trucking, Tom Iffland
- Location: Winsted Road, Assessor Map 242 Block 3 Lot 1

Activity: Process earth products from construction jobs, within upland regulated area

Tom Iffland appeared before the Commission and handed out new maps to Commission members.

In response to questions from Ms. Bakker, Mr. Iffland pointed to areas of the map and provided explanations.

Ms. Barbieri has not done a formal review, the map is close to what was provided before, which was a hand drawn map. She wanted to get a feel from the Commission, as sometimes temporary things become permanent things. Outstanding items of concern are where is the material from that they will be crushing? Do they test it for contaminants before they crush it? They are associated with Mountain Trucking who does a lot of demolition. We don't have the soils report that is associated with the wetlands line. Mr. Iffland stated he has the report, and Ms. Barbieri stated it is important to get that in.

Discussion followed referencing the maps. (#1640)

Ms. Perez stated it would be nice to have this come in as a whole. She believes it is best to withdraw and come back fresh and new, under the initial fee. Commission members agreed. Mr. Iffland agreed to withdraw and resubmit with more complete information.

g. Applicant: Charlotte Hungerford Hospital
Location: 200 Kennedy Drive
Proposal: Parking lot construction within upland regulated area.

Tim Coon of J.R. Russo and Associates appeared representing the hospital. He summarized the project. (#1780)

Ms. Murphy inquired about the tree clearing. Maps were referenced, some trees will be maintained and other landscaping supplemented. This area of landscaping was discussed. Chemotherapy suites overlook the area where trees will be removed.

MOTION by Ms. Perez to grant a permit, seconded by Ms. Bakker, unanimously carried.

6. New Business:

a. Applicant: Peter Bronzi
Location: 127 Wood Street
Activity: Discussion: Possible streambank reconstruction and filling.

Ms. Barbieri reviewed her findings on Mr. Bronzi's site. There has been severe erosion from several storms. A possible solution Mr. Bronzi is considering is channelization of an open stream. Before he invests money in engineering, Ms. Barbieri wanted the Commission's take on the matter.

Peter Bronzi appeared and explained his plans. He plans to build a retirement home on

the adjacent lot. (#2110)

Ms. Barbieri explained the only way to do this is to widen the stream banks. There are huge boulders on site. The area can't handle the amount and volume of water put onto it. Various options were discussed. A suggestion was made to have Mr. Bronzi speak with a water hydrologist. Mr. Bronzi can reappear with more information.

- b. Applicant: Samuel G. Mazzarelli
Location: Pumping Station Road, Assessor Map 202-1-1
Activity: Dam repair, wall construction, drainage improvements within upland regulated area.

Ms. Barbieri said Mr. Mazzarelli has asked the matter be tabled as he is working closely with Ed Fabbri to include some changes for a better solution.

MOTION by Ms. Perez to table this agenda item, seconded by Mr. Telman, unanimously carried.

- c. Violation
Property Owner: Amel and Almedin Bibic
Location: 78 Moore Drive
Violation: Filling without permits

Mr. Bibic appeared and explained previously owners had a pool on the property, which was removed. There was a huge hole in the ground that was dangerous. The City of Torrington was doing some roadwork down the street. Mr. Bibic asked them to put the fill in the area of the pool. He provided details of the site.

Ms. Barbieri had asked Mr. Bibic to contact Sean Hayden to do a soils report. Mr. Bibic should contact Ms. Barbieri once the report is obtained.

MOTION by Ms. Perez to defer the violation fee, seconded by Mr. Telman, unanimously carried.

8. Staff Report:

Agent Determinations:

- 76-80 East Pearl Street, Lafferty Enterprises, new drainage, additional parking area, upland regulated area
- 100 Windtree, Patrick MacDonald, construct detached garage within upland regulated area.

Ms. Barbieri briefly reviewed the agent determinations.

9. Adjournment:

MOTION by Ms. Perez to adjourn, seconded by Ms. Bakker, unanimously carried at 10:10 p.m.

Lona Kirk, Secretary
Inland Wetlands Commission