

**CITY OF TORRINGTON  
INLAND WETLANDS COMMISSION  
MINUTES  
October 20, 2009**

Present: Jay Bate, Jr., Chairman  
Nancy Schroeder Perez, Vice Chairwoman  
Christine Altman, Member  
Doris Murphy, Member and PZ Liaison  
Kathy Carlson, Member  
Jane Bakker, Member and Secretary  
Tom Telman, Member (arrived 7:02 p.m.)

Also Present: Kim Barbieri, Wetlands Enforcement Officer

**1. Call to Order:**

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

**2. Roll Call and Announcement:**

Chairman Bate announced present and serving on the Commission this evening will be Commissioners Jane Bakker, Nancy Schroeder Perez, Christine Altman, Doris Murphy, Kathy Carlson, and Jay Bate. Also present is Kim Barbieri, Inland Wetlands Enforcement Officer.

**3. Minutes for Approval:**

a. 9/15/09

MOTION by Ms. Perez to approve the minutes of 9/15/09, seconded by Ms. Murphy, unanimously carried. Ms. Altman abstained from voting. Mr. Telman arrived at this time.

**4. Executive Session:**

The Wetlands Commission left the room to discuss an Executive Session matter.

MOTION by Ms. Perez to GRANT a permit for Lot 44 parcel on Tarringford West Street, Ensurv, LLC, seconded by Ms. Altman, unanimously carried.

MOTION by Ms. Perez to ACCEPT the Conservation Easement as presented by ENSURV, LLC, seconded by Ms. Altman, unanimously carried.

5. Old Business:

- a. 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 briefly reviewed the past reviews on this application.

Huseyin Sevincgil with MHF Design, Salem, NH appeared before the Commission and gave a presentation, reviewing the changes made to the plan. (#148)

MOTION by Ms. Altman to APPROVE the permit for Taco Bell of America, 1795 East Main Street to construct Taco Bell restaurant with associated grading, drainage and paving within upland regulated area and discharged to a wetland with a condition that the final plan for the drainage be approved by City Staff. Motion seconded by Mr. Telman, unanimously carried.

- b. 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)

Ms. Barbieri briefly reviewed the application, and the concerns of the Commission regarding the lack of restoration. Ms. Barbieri has worked with the Engineering Department, Public Works, DEP and Army Corps. An email was sent to Commission members regarding stabilization and restoration ideas that have come about. To date, DEP has been very receptive to those alterations to the Phase 2 and our liaison with Army Corps is on board, he has reviewed some of the ideas. Sections of levy sections that have been rip rapped have to remain armored in case of flood or erosion (details provided, #380). A final plan has not been approved. Funding remains an issue.

MOTION by Ms. Perez to GRANT a permit to the City of Torrington for the Naugatuck River, East and West Branches and main stem, bank clearing for phase 2 of the Flood Control Project per Army Corps, with the stabilization plans we have discussed, per DEP and Army Corps, seconded by Mr. Telman, unanimously carried.

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

Ken Hrica, Engineer and Licensed Land Surveyor appeared on behalf of Sam Mazzealli. He has been working with City Engineer Ed Fabbri and they have not come to a final conclusion. A plan is expected within a month.

MOTION by Ms. Perez to table the subject item, seconded by Ms. Altman, unanimously carried.

6. **New Business:**

- a. Applicant: Tasim Klenja  
Location: Torringford Street, Assessor Map 143-3-7  
Activity: New single family house, driveway crossing and grading within upland regulated area.

Mr. Klenja was not present. Ms. Barbieri suggested tabling the matter.

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

- b. Applicant: Mountain Top Trucking / AJK LLC  
Location: Winsted Road, Assessor Map 242-3-1  
Activity: Process earth products from construction jobs (concrete, brick, fill)

Ms. Barbieri noted updated plans have been submitted which she has not reviewed yet.

Tom Iffland, Jr. appeared before the Commission and explained nothing has changed since the first application. He reviewed the scope of the proposed work and limits of construction.

Ms. Barbieri and the Engineering Department will review the plans.

Mr. Iffland explained how they screen and crush earth products and described where they get the material to pulverize. No washing of material will be done.

MOTION by Ms. Perez to accept the application for Mountain Top Trucking / AJK, LLC for Winsted Road, Assessor Map 242-3-1, process earth products from construction jobs (concrete, brick, fill), this is not a significant activity. Motion seconded by Ms. Altman, unanimously carried.

7. **Public Hearing Scheduled for October 20, 2009, 7:30 p.m., Sullivan Senior Center, Shuffleboard Room, 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 9/15/09)

Mr. Bate opened the public hearing at 7:30 p.m. Ms. Barbieri announced Christine Altman is recusing herself. Ms. Bakker announced she has listened to tapes. Ms. Murphy is not done listening to the tapes.

Ms. Barbieri stated she had gotten wind of some discussion that the Inland Wetlands Commission was 'in the pocket' of the developer and that we had already pre-determined our views on this application. Ms. Barbieri asked each Commissioner to state for the record if they have been approached or talked specifically to the applicant at any time about this project, and if any Commissioner has been pre-advised to act on this particular application.

Ms. Bakker stated she has not spoken to anyone about this project outside of the Commission meeting.

Ms. Carlson has not spoken to anyone regarding this project.

Ms. Murphy stated she is unbiased and has not been advised on this project.

Ms. Perez noted at the beginning of these hearings she stated she knows Steven Marcus, but she knows a lot of people in Torrington, and this does not give a bias.

Mr. Bate has not spoken to anyone regarding this project and he is not biased.

Mr. Telman stated he has not spoken to anyone, and he is not biased on this project.

Mr. Bate asked for new information, and comment on new materials.

Ms. Barbieri noted that Mr. Sean Hayden submitted a letter this morning, the applicant has a copy of the letter, and the letter is in the file and is part of the record.

Sean Hayden of 68 McDonald Street, Torrington, appeared before the Commission. He reviewed the new plans and presented his findings to the Commission (#1015).

Brian McDonnell, 86 Wyoming Avenue, Torrington appeared before the Commission and requested the City get an updated to the 1990 Kings Mark Study, which must be done by an official of the City or the Commission. Mr. McDonnell outlined his concerns (#1230). Ms. Barbieri entered a letter from Mr. McDonnell into the record.

Karl Gangloff of University Drive, Torrington, appeared and distributed materials to the Commission. Ms. Barbieri entered into the record a letter from Gangloff. Mr. Gangloff read a lengthy letter of opposition. (#1400)

Mark Valdussi of Wyoming Avenue appeared and voiced concern regarding what will happen to his backyard with drainage. (#2600)

In response to some of Mr. Gangloff's comments, Ms. Barbieri stated she is not a voting member, she has no 'in' with this application. If it fails, another one will come along. She will say however, that this application team should not be vilified. Mr. Pollock has been used by the Commission before, and he is fair minded, even and balanced. Mr. Pollock is one of those few professionals that no matter which side of application he is on, he speaks fairly and truthfully as a scientist. Ms. Barbieri made similar comments regarding Mr. Hrica. She has not worked with Mr. Murphy prior to this application but his company is held in high regard. Ms. Barbieri has worked with Mr. Herbst and his staff before. Ms. Barbieri stated it is not fair to vilify people just because they are representing this application.

Attorney Peter Herbst appeared representing the applicant. Mr. Herbst expressed concern with Mr. Gangloff's comments and he wants to echo the fact that he has worked with these professionals before and he has worked on the other side of the table with these gentlemen, and they are meticulous with their work and they are professionally and intellectually honest. (#2980)

The Commission took a brief recess at this point.

Mr. Herbst reintroduced their team members present this evening, Steve Marcus, partner in the project. Joe Roche, another partner was not present this evening. Also present is Ken Hrica, professional engineer, Ed Pollack, certified wetlands scientist, and David Murphy, hydrogeologist.

Mr. Herbst and the experts have worked to respond to Mr. McDonnell's comments and have submitted a twelve page letter which is part of the record. Mr. Herbst outlined portions of his letter.

Ken Hrica, of Hrica Associates, came forward and did a lengthy address of Sean Hayden's letter that was received just this morning. Specifically he highlighted that Mr. Hayden although a Certified Erosion Control Specialist was not a stormwater expert or an engineer. The information that was cited in Mr. Hayden's letter primarily came from the *2004 CT Stormwater Quality Manual* (DEP) – the manual states in its preface that it is a guideline and should not be construed to be a 'recipe' for designing appropriate stormwater management for a particular site and that professional judgment and assessment should be used to modify the guidelines to meet the specific site needs.

Mr. Hrica reviewed changes to the plan including a rip rap slope below the infiltrator on the fill slope, addition of turf management requirements and reviewed when the critical elements of the site construction, mainly the 'uphill' retaining walls, would be constructed.

Ed Pollack, certified wetlands scientist, and David Murphy, hydrogeologist followed with short presentations addressing concerns brought up in specific letters entered into the record. Mr. Herbst summarized the application and Mr. Roche thanked the Commission for their attention and diligence in hearing this application.

A MOTION was made to close the public hearing made by Ms. Perez, seconded by Ms. Bakker. Vote was unanimously passed. Chairman Bate stated the Commission needed time to review the new material and would act on the application at the following meeting, November 17<sup>th</sup>.

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

Abel Bibic appeared before the Commission and reviewed his discussions with Sean Hayden. He has installed a silt fence. (Portions inaudible due to several conversations at one time).

Mr. Bibic explained his plans to put down topsoil and seed. Ms. Barbieri stated the site needs to be stabilized as soon as possible.

MOTION by Ms. Perez to GRANT a permit to Abel and Almedin Bibic, 78 Moore Drive, to stabilize what's there right now and work with Ms. Barbieri on straightening out the fill dressing with topsoil and seeding the fill area, seconded by Ms. Bakker, unanimously carried.

- d. Violation  
Property Owner: Brian Whittlesey  
Location: 2480 Newfield Road, Assessor Map 230-1-1  
Violation: Fourth Violation, placing fill to construct driveway within upland regulated area and tree cutting, no permits.

Brian Whittlesey appeared and explained to the Commission that he had cut down a dead tree and removed the stump and root system, he needed the wood to heat his home. Mr. Whittlesey pointed to areas of the map and provided details about neighborhood kids that have been accessing their property and causing damage. He showed the work he did on the accessway into the back property.

Ms. Barbieri presented her findings (portions inaudible due to several conversations at once). This is a long narrow site and almost all of the property is within the upland regulated area to the river. Mr. Whittlesey's daughter spoke of the various work her father does on the property. Discussion followed (#623). Ms. Barbieri reviewed past violations and made suggestions for the future. Mr. Whittlesey will meet with Ms. Barbieri to provide a plan for the property to bring before the Commission.

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

## **8. Staff Report:**

Agent Determinations:

- 1847 Norfolk Road, Thomas Preato, septic installation
- 243 Westside Road, Walter Harrison, new septic installation in upland review area, replacement of failing system.
- Heron Road, Lot 79, name transfer to Cardwell Homes LLC

Ms. Barbieri briefly reviewed the agent determinations.

Ms. Barbieri informed the Commission of the new State fees that are in effect, and we will need a public hearing to amend the regulations.

MOTION by Ms. Altman to set a public hearing date of November 17, 2009 for the regulation changes, seconded by Ms. Perez, unanimously carried.

## **9. Adjournment:**

MOTION by Ms. Perez to adjourn, seconded by Ms. Altman, unanimously carried.