

**CITY OF TORRINGTON**  
**INLAND WETLANDS COMMISSION**  
**MINUTES**  
**July 16, 2013**

Present: Christine Altman, Vice Chair  
Doris Murphy, Member and PZC Liaison  
Jane Bakker, Member and Secretary  
Kathy Carlson, Member  
Nicole Bastiannse Fritch, Member  
Tom Telman, Member

Also Present: Kimberly Barbieri, Inland Wetlands Enforcement Officer

Not Present: Jay Bate, Jr., Chairman

1. **Call to Order:** Ms. Christine Altman, Vice Chair, called the meeting to order at 7:09 p.m., Torrington City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT

2. **Roll Call and Announcement:**

Ms. Altman announced present and serving this evening will be Commissioners Christine Altman, Doris Murphy, Jane Bakker, Kathy Carlson, Nicole Bastiannse Fritch, and Tom Telman. Also present is Kimberly Barbieri, Inland Wetlands Enforcement Officer.

3. **Minutes for Approval:**

a. 6/18/13

MOTION by Ms. Bakker to approve the 6/18/13 minutes, seconded by Ms. Murphy, motion carried with Mr. Telman and Ms. Fritch abstaining from voting.

4. **Old Business:**

a Inland Wetland Permit WC09-37, Violation  
AJK, LLC (aka MountainTop Trucking)  
Discussion: ATV track

Ms. Barbieri reviewed information sent to Commissioners in their agenda packets. This is the location where at last month's meeting, the Commission revoked the permit for Mountain Top Trucking to work within the upland review area. That decision is being appealed. Ms. Barbieri has had a couple meetings with Corporation Counsel and the defendant's attorney to discuss the matter. Ms. Barbieri has been reluctant to go into any talks because she does not feel in this forum she is authorized to act for the

Commission. This situation is not like the Planning and Zoning Commission where Ms. Barbieri is acting as a full agent, where those actions can be appealed through a system. Wetlands is different, there is only a way to appeal the Commission's actions and that is through court. Ms. Barbieri does not feel confident negotiating on behalf of the Wetlands Commission when the Commission is ultimately required to decide what stays, what goes, what's agreed upon. We are going to try and put together a meeting in the coming weeks that's supposed to be with Attorney Sanchy, Dan Stoughton, Ms. Barbieri, Martin Connor - City Planner, and Corporation Counsel Ray Rigat and she will request one or two Commission members to be present. Jay Bate has already agreed to be present. It is important to have a couple Commission members present to discuss what was said, and to bring in your viewpoint.

Ms. Barbieri reviewed a letter received from Attorney Sanchy regarding the actual wording used at the last meeting. The letter has no bearing on the lawsuit and was put it in the file.

Based on the letter, in the future when the Commission makes a motion, Ms. Barbieri will get clarification to get things exact. There will be a higher sense of making sure that we use the language that is specifically used in the statutes or in our regulations, so Ms. Barbieri will be guiding the Commission to those words. Ms. Barbieri will probably be making the Commission a cheat sheet that will be passed out with correct "buzz words" to use.

Regarding the potential violations on the Winsted Road property, Ms. Barbieri had Dave Scherf, the City's GIS person, put together these maps, which were e-mailed, and the e-mail was much better than the print out. (Handing out) The map showed an aerial photo of Mountain Top Trucking's upper Winsted Road location with the Mountain Top Trucking's map overlaid showing wetland areas.

Ms. Altman inquired how is it that the months this company jerked us around, made promises and re-negged on every single one of them, and that idea doesn't really come through in the record.

Ms. Barbieri responded it may be because our new Corporation Counsel was not a party to what was going on from the very beginning, he was thrown in at the end and it has everything to do with a fairly common law practice which is to divert your attention away from the issues. Ms. Barbieri thinks that is what it comes down to.

Ms. Altman said all that bargaining was because they were here bargaining as opposed to doing what they were asked, and we bargained with them because we were nice.

Ms. Barbieri sent an e-mail showing the map, which came out better, and you can see the important information more clearly. Can every one see this diagonal hatching? (Affirmative responses from Commission) The diagonal hatching is the wetlands and you can see there is section that goes all the way up around the top and all the way around underneath where the ponds are, basically everything between the ponds and the Still River. You can also see the little blue line at the top, and that's a small stream that comes from underneath Route 8 from on top of the hill. And there is a big black line that they did not outline that kind of goes through there and that is the Still River. You can see that this property is almost entirely wetlands or upland review area. The area that is not hatched in here (pointing to map) is the area they have as their work area. Now the areas the Commission needs to look at: there's a little boot where it says

“wetlands”, that is one end of an ATV track. If you can follow that around, it kind of goes up, down, and around, you go up towards the blue line, it almost hits the blue line, and then it goes across the top, all the way along the edge of the blue line and back around. It’s approximately a mile and a half (loop). You can see there is a good portion of it that’s either in the upland review area or directly in the wetlands.

The other area that Ms. Barbieri finds interesting is that if you go back to the boot where it says wetlands, look at the other end of wetlands where there is a bunch of it looks like equipment and storage stuff which is actually in the wetlands as well. It looks like that area is an actual work area. Commission members pointed to an area on the map and inquired “right on the edge here?” “Where did we go when we did the walk here?” Ms. Barbieri responded “yes, and you can see that is expanded right into the wetlands. When you came in, you came in here and went straight up the road here.” Ms. Barbieri pointed to where the members walked to here and then back. Several Commission members pointing at map, discussing map, several voices, inaudible. Ms. Altman said (inaudible) dug trench with no vegetation whatsoever.

Ms. Barbieri said Mountain Top Trucking won’t allow her on site. Ms. Bakker inquired if they still won’t allow her on site, Ms. Barbieri responded “No. Attorney Sanchy had said in the latest meeting that Mountain Top Trucking didn’t have to come to us for a permit for the ATV track because it was recreation and recreation is an allowed activity in wetlands.” Ms. Barbieri had responded “No, you have to read the entire paragraph regarding the deposition of materials.” Ms. Altman said meaning you can walk or hike or bike through the wetlands as long as there is no fill. Mr. Telman said or fly over. Ms. Barbieri said “Yes, and furthermore, it acts similar to the as of right agriculture, so if I want to build an ATV track in the wetlands, I have to come to this Commission and claim it as an as-of-right and ask ‘Do you agree?’ and if we agree then he can do it, and if we don’t agree, then he has to get a permit. He didn’t do that.” Mr. Telman said he didn’t do either one. Mr. Telman inquired how long the track has been there, was it there when we went up? Ms. Barbieri said “Yes, it’s on the other side of all those mounds.” Mr. Telman said we just didn’t see it, on the other side of the mounds. Ms. Barbieri had climbed on the mounds, as she wanted to get a big picture of the cleared area and she couldn’t get back far enough when the mounds were there. So Danny (Stoughton) was standing right there and said Ms. Barbieri could climb up. Ms. Barbieri climbed up to the top, got to the top and said “Oh my goodness”, snapped a couple pictures, took the pictures she needed to and left. She shared those pictures with Corporation Counsel and he shared them with Mr Sanchy. Mr. Sanchy was not happy, he was claiming that Ms. Barbieri may have gone another day on the property and Ms. Barbieri showed him the date and said it had been the exact same day (as the Commission walk through).

Ms. Barbieri inquired if the Commission wanted her to move forward with a violation on this. She will need a motion and at that time she will format the whole thing and send out the pictures she had taken that day (February 2012). Ms. Barbieri ended her presentation and she inquired if there were any questions.

Mr. Telman said this is pretty self explanatory. Ms. Bakker stated she wants to make sure they word the motion accurately. Ms. Barbieri said she will write it down. Ms. Fritch inquired if they need to have their own attorney present at all these meetings they

attend just to be safe for us? Ms. Barbieri responded "Sure, I'll inquire about that" and she is OK with that.

Ms. Altman asked "Do we want to discuss some reasons why "Yay" or "neah" for a motion for a violation letter?" Mr. Telman stated "It is clearly in the wetlands". Ms. Barbieri stated "They did not come to you for an as-of-right". Ms. Altman said "They didn't ask us for an as-of-right, and it is obviously in the wetlands". Mr. Telman noted the construction equipment on the edge of it also looks like it is in the wetlands and it is beyond the scope of their original permit.

Ms. Altman said "And they don't even have a permit, right?" Mr. Telman said "Exactly", and Ms. Carlson said "They have nothing now". Ms. Altman stated "This is a problem because why? They didn't do the right thing?" (Several voices at once, inaudible) Ms. Barbieri said "Describe the impacts you believe this could possibly have on the wetlands". Mr. Telman said "It certainly must be detrimental to the wetlands, whether it be flora or fauna." Ms. Altman said "She would think that if you have an ATV track one of the main issues would be erosion and deposition of sediment or something". Ms. Bakker said "Equipment in the wetlands would cause maybe leakage....." Ms. Altman said "We don't know what is in the wetlands, I'm sorry, I don't know what they are depositing into the wetlands....." Mr. Telman said "Whether it is buildings or building materials." (several voices at once, inaudible) Ms. Bakker said she thinks it is equipment, she has a clear map that is larger and she can see vehicles in there. Ms. Altman said "There are vehicles that could possibly leak oil in the wetlands". Ms. Bakker said "Sure".

Ms. Barbieri said "At this point the haul road is sometimes within the upland review area. Do you want to include that, that they can't use that, or they shouldn't use that as part of their work area?" Ms. Altman said "Without a permit?" Ms. Barbieri said "Yes", Ms. Murphy said "It shouldn't be utilized". Ms. Barbieri said she believes she would recommend the haul road specifically, because that area (of the haul road) that it is closest to the turtle hatching area. Ms. Altman said "Right, what have what is considered a Class A wetlands, to the right of the ..... Is that only the pond that is Class A wetlands, or the entire property Class A wetlands? Or we don't know?" Ms. Barbieri said "From the watercourse itself and the surrounding wetlands, and from the Still River, it is all Class A, Highest Quality."

Ms. Altman said "What we have basically is a situation where their activity is degrading a high quality wetland without proper buffering, without consideration of the turtle hatchery. They have degraded it." Ms. Bakker said "Do we want to say they are degrading or possibly ....." Ms. Altman said "No, they are degrading, we see clearing, we see a dirt track for all terrain vehicles." Ms. Bakker said "I see what you are saying." Ms. Barbieri said "One other thing about the work area that is expanded that I think is really important and we always tend to talk about erosion and sediments, but this is a process where they pulverize (earth materials) and they use a conveyor where they create piles and with that (type of use) you get a huge amount of dust which I think is a really important thing to try and filter that before it gets to the water's edge." Ms. Altman asked "What would the dust do to the water?" Ms. Barbieri responded "It is a sediment." Ms. Bakker stated "But not only that, isn't a lot of that material they are using contaminated?" Ms. Barbieri said "It could be, we have no idea where it is

coming from.” Ms. Bakker noted even with rain water, it will slough some off into the wetlands.

Ms. Barbieri said “At this point we don’t know what is being brought in, and that might be something we can start asking.....” Mr. Telman inquired if they were still operating, and Ms. Barbieri responded “Yes.” Ms. Altman noted they are appealing that decision. Mr. Telman stated that doesn’t mean they can still continue, can they? Ms. Barbieri said “That is what they think.” Ms. Bakker asked if a Cease and Desist could be done. Ms. Barbieri said they are working outside of the upland review area, but apparently they are not in these two areas, so this will be a cease of desist order on all activities on the property until such time it’s ..... (Ms. Bakker’s comments inaudible) Mr. Telman said full survey, wetlands..... Ms. Altman inquired if notes were taken on everything that was said. Ms. Altman asked if the Commission could read it. Ms. Barbieri said yes, and she will get a read back from Lona via tape. Ms. Barbieri said that’s how we are going to be dealing with this now, she won’t issue any permit or violation until Lona has the ..... Ms. Altman said so basically read it back at the next month’s meeting? Ms. Barbieri said what she does, is whenever she does her minutes, he has it on tape, that’s what we are recording here, she will get it verbatim as our motion, and then that’s the exact text that I will use in my permit. Ms. Altman said motion..... Ms. Barbieri said you guys, as long as we can work it through and we can wordsmith it here, we don’t have to say it in one single pretty sentence. Ms. Altman said “We don’t?” Ms. Barbieri said no, we have listed a number of things and we will just list those number of things as the reason for our concern, were these violations? What we feel the potential impacts are and then that will be written out as part of the minutes and that will be written out as part of whatever permit or violation that I issue. Ms. Altman said OK. Ms. Barbieri said but we will do exploratories like this where we talk about what all we are including, ok?

Ms. Altman said does anyone want to make that motion? You don’t have to list it all again, we have to just (inaudible) it. Ms. Barbieri said no.

Ms. Altman: We want to move.

Ms. Bakker: I’ll second the motion.

Ms. Altman: Where’s the motion. Who did the motion?

Ms. Bakker: I thought you did.

Ms. Barbieri: You did.

Ms. Altman: I did? OK, I did the motion.

Laughter.

Ms. Altman: That’s enough.

Ms. Altman: Vote? All in favor? All members of Commission “AYE”

Ms. Altman: Opposed? No response.

Ms. Altman: Abstention? No response.

Ms. Altman: Motion carries.

Ms. Altman: Alright, new business. We need a two-thirds vote to add 1165 South Main Street to agenda.

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**5. New Business:**

none

MOTION by Mr. Telman to add 1165 South Main Street, Berkshire Engineering, for concrete pads and scale, to the agenda, seconded by Ms. Murphy, unanimously carried.

Ms. Barbieri explained this is the old Leone's recycling center. The site has been vacant for quite a few years. These applicants have been extraordinarily cooperative and careful with this process. They have contact Ms. Barbieri continuously, and have met on site with Ms. Barbieri, Matt Walsh and Martin Connor. They will appear next at Planning and Zoning Commission. The applicants have moved the fencing further back on the property, which Ms. Barbieri thinks is great.

Paul Conrad appeared representing Berkshire Recycling LLC, along with Chris Harmon of Berkshire Recycling LLC.

Mr. Conrad explained their proposal, is a continuation of the initial use of the property as a recycling facility. They will acquire a state license to dismantle automobiles. The concrete pad will be on parcel 1. The map was referred to and areas on the map, catch basins, features, etc. were noted by Mr. Conrad. Ms. Barbieri noted a large island will be created in front, with ingress and egress. Drainage and water management were discussed. The catch basin locations were noted by the applicant. The applicant will send a plan to Ms. Barbieri showing the labeled catch basin locations.

MOTION by Mr. Telman to accept the application for 1165 South Main Street, Berkshire Recycling Inc., Activity: Concrete pads and scale within upland review area, seconded by Ms. Bakker, motion unanimously carried. This is not a significant activity.

Ms. Barbieri explained the applicant will appear at the next month's meeting, and the applicant shall submit a PDF with the location/labeling of the catch basins.

**6. Staff Report:**

a. Staff Update:

Agent determinations:

- a. 37 Technology Park Drive, Borghesi/Wittman Robotic, addition, parking
- b. 356 Tarringford West Street, Resubdivision; Susman, Duffy & Segaloff

- c. 221 Oakbrook Lane, Joel Molinsky, shed, patio/retaining wall/landscaping

Ms. Barbieri briefly reviewed the agent determinations.

Violations:

Ms. Barbieri reviewed the violations she noted while doing an inspection for another permit.

- a. 51 Devaux Road, Roger and Joann Brogis  
Watercourse piped, vegetation cleared, no permits

Ms. Brogis had written Ms. Barbieri that she was unable to appear this evening. Ms. Brogis was sincere and most willing to work with Ms. Barbieri to correct this situation. She will appear in September.

- b. 99 Devaux Road, Brian Brogis  
Watercourse piped, vegetation cleared, no permits

Mr. Brogis has not been in contact with Ms. Barbieri.

**7. Adjournment:**

MOTION by Ms. Bakker to adjourn at 7:53 p.m., seconded by Ms. Murphy, unanimously carried.