

**CITY OF TORRINGTON
INLAND WETLANDS COMMISSION
MINUTES
September 20, 2016**

Present: Jay Bate, Jr., Chairman
Christine Altman, Vice Chair
Jane Bakker, Secretary/Member
Tom Telman, Member
Jonathan Andrews, Member

Also Present: Rista Malanca, Inland Wetlands Enforcement Officer
Jaime LaMere, Corporation Counsel

Not Present: Doris Murphy, Member
William Storti, Member

1. Call To Order:

Chairman Jay Bate opened the meeting at 7:00 p.m.; Torrington City Hall, Room 218, City Hall Council Chambers, 140 Main Street, Torrington, CT

2. Roll Call and Announcement:

Chairman Jay Bate announced present and serving on the Commission this evening will be Commissioners Christine Altman, Jane Bakker, Tom Telman, Jonathan Andrews and Jay Bate. Also present is Inland Wetlands Enforcement Officer Rista Malanca and Corporation Counsel Jaime LaMere for the City of Torrington.

3. Minutes for Approval:

a. 8/16/16

Motion by Ms. Bakker to approve the 8/16/16 minutes, seconded by Mr. Andrews. Motion carried with abstentions from Ms. Altman and Mr. Telman.

4. Old Business:

- a. Applicant: James Mersfelder, on behalf of Woodridge Lake Sewer District
Location: Goshen Road (Route 4): Starting at the Goshen/Torrington municipal boundary extending to Riverside Ave
Proposal: Install a force main pipe along Route 4 from the Town line to Lovers Lane & Replace the existing 8" diameter gravity sewer pipe to a 12" diameter gravity sewer pipe in the same alignment from Lovers Lane to Riverside Ave within the upland review area.

(Public hearing was held and closed on August 16, 2016. Public hearing is now closed and no additional public comments or documents will be accepted)

Ms. Malanca read her memo to the Commission dated September 19, 2016, into the record:

To: Inland Wetlands Commission
From: Rista Malanca, Wetlands Agent
Subject: James Mersfelder, Vice President/Treasurer for Woodridge Lake Sewer District, Install a force main pipe along Route 4 from the Town line to Lovers Lane & Replace the existing 8" diameter gravity sewer pipe to a 12" diameter gravity sewer pipe in the same alignment from Lovers Lane to Riverside Avenue within the upland review area.
Date: 9/19/2016

The City of Torrington's Inland Wetlands and Watercourse Commission (Commission), based on the oral and written testimony supplied at the public hearing, must:

1. Address the intervention filed by the Torrington Water Company pursuant to Section 22a-19 of the Connecticut General Statutes. The Commission must make a finding that this proposal does or does not have a reasonable likelihood resulting in the unreasonable pollution, impairment, or destruction of the public trust in the air, water, or other natural resources of the State of Connecticut.

The jurisdiction of the Commission does not change or expand due to the filing of an intervenor. The Commission must limit its review of this application to matters that are within their jurisdiction as per the City of Torrington Inland Wetlands and Watercourse Regulations (Regulations).

2. Act on the application referenced above. The Commission should consider the Criteria for Decision in Section 10 of the Regulations.

The Commission must carefully consider all information submitted at the public hearing and determine if there is a reasonable likelihood that these activities would cause an unreasonable pollution, impairment or destruction to wetlands or watercourses.

The record contains the following documents (in chronological order):

Original Application includes:

- Woodridge Lake Sewer District, Regional Sewer Connection Project, Application for Inland Wetlands Permit, City of Torrington – dated July 13, 2016
- Maps and Plans prepared by Woodard & Curran / David Prickett Consulting, LLC, Titled "Woodridge Lake Sewer District, Goshen Connecticut, WLSD Regional Sewer Extension, Torrington & Goshen CT" dated June 2016

Other Documents:

- Letter from Torrington Water Company (TWC) to Raymond Turri & Jim Mersfelder of the Woodridge Lake Sewer District (WLSD), dated July 11, 2016 re: Woodridge Lake Sewer District Regional Wastewater Connection Project
- Letter from WLSD to Susan Suhanovsky (TWC), dated July 15, 2016 re: Woodridge Lake Sewer District ("WLSD") – Regional Sewer Connection Project
- Letter from Pullman & Comley and Intervention of the Torrington Water Company verified pleading filed pursuant to Section 22a-19 of the CT General Statutes, dated July 19, 2016
- Letter from Woodard & Curran to Ms. Patricia Bisacky (CT Dept. of Public Health) re: proposed Regional Sewer Connection Project, Woodridge Lake Sewer District, dated July 30, 2016
- Letter from the State of CT Department of Public Health to Mr. Thomas Stansfield, dated August

4, 2016, re: Inland Wetlands Application of Woodridge Lake Sewer District – Construction of Wastewater Transmission System

- Letter from the State of CT Department of Public Health to Mr. Jay Bate, Jr, dated August 15, 2016, re: Inland Wetlands Application of Woodridge lake Sewer District – Construction of Wastewater Transmission System
- Report from Environmental Planning Services, Titled “Wetland Evaluation and Impact Assessment” dated August 15, 2016
- Packet in support of application for permission to conduct regulated activities associated with a proposed wastewater transmission system located in Torrington, Connecticut, submitted by Christopher Smith Esq., dated August 16, 2016
- Statement of James L. Mersfelder re: Woodridge Lake Sewer District Application, Torrington Inland Wetlands Public Hearing: August 16, 2016
- Report from Tata & Howard to Ms. Susan Suhanovsky (TWC) dated August 16, 2016
- Map of Hall meadow Dam Watershed 7676 Acres

In reviewing the above Inland Wetlands application, plans, documents, and testimony presented at the public hearing, which was opened and closed on August 16, 2016, it is my opinion that the proposed wastewater transmission system line will have no adverse impact on the wetlands or watercourses. No actual work will be performed in the wetlands or watercourses, only a temporary disturbance to the upland review areas.

Furthermore; the applicant’s expert Mr. M. Klein clearly stated on the record that is the Regulated Activities are not likely to cause an unreasonable pollution, impairment or destruction of wetland or watercourses. Mr. M. Klein is a Registered Soil Scientist as well as a Certified Professional wetland Scientist. In Mr. M. Klein’s report on page 6, section 6.1.1 states “there will be no direct wetland impacts associated with the proposed regulated activities” In Summary on page 8 he concludes that “these measures are appropriately designed to prevent any long term adverse impacts to wetlands and watercourses.” No other certified professional wetland Scientists or soil scientists testified.

The Applicant’s Engineer, Mr. Prickett also clearly stated on the record that the Regulated Activities are not likely to cause an unreasonable pollution, impairment or destruction of wetland or watercourses.

The TWC’s Engineers from Tata & Howard did not clearly state that the Regulated Activities would likely cause unreasonable pollution, impairment or destruction to wetlands or watercourses. In fact, throughout their report they reference the possible risks, and specifically on page 9 states “based on the potential risk to the TWC public water supply ...” Neither in their testimony nor in their report did they identify specifically what unreasonable pollution, or impairment nor destruction of the wetlands would occur.

Therefore; it is my recommendation related to the Intervention filed by the Torrington Water that the Commission make a finding that this proposal does not have a reasonable likelihood of resulting in the unreasonable pollution, impairment, or destruction of the public trust in the air, water, or other natural resources of the State of Connecticut.

Also I recommend that the Commission make a finding that the proposed regulated activities do not represent a significant activity per Section 2 of the City of Torrington Inland Wetlands and Watercourses Regulations. In accordance with Section 10 of the City of Torrington Inland Wetlands

and Watercourses Regulations, I recommend that the application be approved with the following conditions:

1. If the authorized activity is not completed within Five years from the issuance date of: September 20, 2016, said activity will cease and, if not previously revoked or specifically renewed or extended, this permit will be null and void. Any request to renew or extend the expiration date of a permit should be filed in accordance with the Inland Wetlands Regulations of the City of Torrington. Expired permits may not be renewed and the Inland Wetlands Commission may require a new application for regulated activities.
2. The permittee will notify the Inland Wetlands Enforcement Officer upon commencement of work and upon its completion.
3. All work and all regulated activities conducted pursuant to this authorization will be consistent with the terms and conditions of this permit. Any structures, excavation, fill, obstructions, encroachments, or regulated activities *not specifically identified and authorized herein* will constitute a violation of this permit and may result in its modification, suspension or revocation.
4. This authorization is not transferable without the written consent of the Inland Wetlands Commission.
5. In evaluating this application, the Inland Wetlands Commission has relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete, or misleading, this permit may be modified, suspended, or revoked and the permittee may be subject to any other remedies or penalties provided by law.
6. The permittee will employ the best management practices as outlined in the 2002 CT E&S Guidelines, March 2002 edition and all amendments, consistent with the terms and conditions of this permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands or watercourses. For information and technical assistance, contact the Wetlands Enforcement Officer. The permittee will immediately inform the Commission of any problems involving the wetlands or watercourses that have developed in the course of, or that is caused by, the authorized work.
7. No equipment or material including without limitation, fill, clippings, brush, construction materials, or debris, will be deposited, placed, or stored in any wetland or watercourse on or off site unless specifically authorized by this permit. Any such activity not authorized by this permit may be just cause for revocation of the permit.
8. This permit is subject to and does not derogate any rights or powers of the City of Torrington, conveys no property rights or exclusive privileges, and is subject to all public and private rights to all applicable federal, state and local laws. In conducting and maintaining any activities authorized herein, the permittee may not cause pollution, impairment, or destruction of the inland wetlands and watercourses of Torrington.
9. If the activity authorized by the inland wetlands permit also involves activity or a project that requires zoning or subdivision approval, special permit, variance, or special exception, no work pursuant to the wetlands permit may begin until such approval is obtained.
10. The permittee will maintain sediment and erosion controls at the site in such an operable condition as to prevent the pollution of wetlands and watercourses. Said controls are to be inspected by the permittee for deficiencies at least once per week and immediately after rains. The permittee will correct any such deficiencies within 24 hours of said deficiency being found. The permittee will maintain such control measures until all areas of disturbed soils at the site are stabilized.
11. Erosion and sedimentation controls are installed and inspected prior to start of construction.

..... End of Memo

Ms. Malanca had draft motions prepared for both APPROVAL and DENIAL of the proposal.

Mr. Bate inquired if all the plans have been reviewed by the City's Engineering Department and Ms. Malanca responded yes, and they will continue to be reviewed as the process moves along, through design and construction.

Ms. Bakker asked if the draft motion takes into consideration all that is in the memo, and Ms. Malanca answered yes.

Ms. Malanca reminded the Commission that although they have heard a lot of testimony about the project being in a public drinking water supply watershed, which is important information, they cannot look at these wetlands and watercourses in this watershed any different than they would if they were not in this watershed. The case law on Wetlands is very clear and very specific and very strict that you have to prove there is likely to be an impact, and that impact is going to cause an unreasonable impairment or pollution to the wetlands. We have heard much testimony that there might be an impact if there is a break in the line or that it might cause pollution to the reservoir if the pipe breaks. That is not strong enough in a wetlands case to deny a permit in Ms. Malanca's opinion. After sitting through the public hearing and reviewing all of the document, Ms. Malanca has formed her opinion based on case law and what the City of Torrington's regulations say.

Ms. Malanca stated that Christine Altman and Tom Telman were not at the public hearing (held and closed on August 16, 2016). Ms. Malanca asked Mr. Telman and Ms. Altman what they have done to be prepared to vote tonight.

Ms. Altman stated she received a CD that had a recording of the public hearing and she listened to that recording twice, and came into the office and looked at maps and cross sections with Ms. Malanca and read the letters that were involved.

Mr. Telman received the CD and listened to the testimony and reviewed all the documents. (CD recording ends here at 7:20 p.m.)

The remainder of minutes were done by Ms. Malanca

Ms. Malanca stated that she emailed all the documents, with the exception of the original application material and the *packet in support of application for permission to conduct regulated activities associated with a proposed wastewater transmission system located in Torrington Connecticut* to the Commission to ensure they have received all of the documents in the file. All of the Commissioners have previously received the documents which were not emailed.

Ms. Altman inquired as to how these sewer lines would be maintained. Ms. Malanca stated that they will be maintained by the City of Torrington's Water Pollution Control Authority (WPCA) would be responsible to maintain these sewer lines once they were installed. The WPCA maintains all of the sewer lines within the City of Torrington including many in streams and rivers. Ms. Malanca reminded the Commission that there are several sewer lines in the Naugatuck River Greenway, including the area by Wall Street where the Commission recently had an application and near Toro Fields. These pipes do not include any of the security measures which are being proposed in this application.

Ms. Altman then asked if feasible and prudent alternatives were available. Ms. Malanca reminded

the Commission that feasible and prudent alternatives were only necessary if in fact the activity was deemed to be a significant activity. The Commission had determined to have a public hearing based on the public's interest not due to the proposal being a significant activity; therefore the applicant did not submit feasible and prudent alternatives. TWC, however, did request that other routes were considered. Ms. Malanca stated that the City of Torrington's WPCA had approved this route and was not favorable for other possible routes – WLPA stated at the meeting that this route was chosen based on the WPCA's recommendation not only using cost as a factor.

The Commission asked Ms. Malanca if all of the Torrington Water Company's (TWC) concerns related to wetlands and watercourses have been addressed by the applicant. Ms. Malanca stated she believes there were two major concerns from TWC, the first being if a pipe broke within the watershed the sewage would leach out through the soils to the reservoir. Ms. Malanca referred to TWC's Engineer's report, from Tata & Howard, page 7 which says "A rough estimate of travel time to the Allen Reservoir dam based on textbook soil transmissivity values was made and found to be in the range of 6 months to a year based on generally published soil data for the area. It is therefore likely that leakage from the project would not be readily noticed in Allen Reservoir. Ms. Malanca recalled that during the public hearing the applicant's experts stated the one of the reasons the sewer line was proposed within Route 4 is so that any failures would be quickly detected. Mr. Bate also recalled that testimony. The second concern was that if the pipe failed as it crossed the watercourse it would more quickly get to the reservoir as this watercourse directly feeds the reservoir. Ms. Malanca again recalled testimony from the public hearing from the applicant's experts stating that it is unlikely that this pipe would leak or break in the first place, but in the unlikely event that it did, it was designed to include protective measures which were extensively explained at the public hearing. All members of the Commission recalled the explanation of the protective measures.

The Commission members had no further questions or discussion on this application

Motion by Ms. Bakker seconded by Mr. Telman to approve the application from James Mersfelder, Vice President/Treasurer for Woodridge Lake Sewer District, Install a force main pipe along route 4 from the Town line to Lovers Lan & Replace the existing 8" diameter gravity sewer pipe to a 12" diameter gravity sewer pipe in the same alignment from Lovers lane to Riverside Ave within the upland review area, within Goshen Road (Route 4), starting at the Goshen/Torrington municipal boundary extending to Riverside Ave.

Whereas James Mersfelder, Vice President/Treasurer for Woodridge Lake Sewer District, has made application for regulated activities within 100 feet of watercourses and/or 75 feet of wetlands, including Installation of a force main pipe along route 4 from the Town line to Lovers Lan & Replace the existing 8" diameter gravity sewer pipe to a 12" diameter gravity sewer pipe in the same alignment from Lovers lane to Riverside Ave within the upland review area, within Goshen Road (Route 4), starting at the Goshen/Torrington municipal boundary extending to Riverside Ave.

Whereas said application contains the following maps and plans titled, Maps and Plans prepared by Woodard & Curran / David Prickett Consulting, LLC, Titled "Woodridge Lake Sewer District, Goshen Connecticut, WLSD Regional Sewer Extension, Torrington & Goshen CT" dated June 2016 along with other documents, letters, reports, submitted along with the application, as well as the testimony accepted at the public hearing on August 16, 2016;

Whereas, the Inland Wetlands Commission of the City of Torrington convened and completed a public hearing on this application August 16, 2016;

Whereas, the professional advisors have reviewed said application and provided written and verbal reports to the Commission on this application;

Whereas, the Inland Wetlands Commission of the City of Torrington, has evaluated the application according to the standards and criteria for a decision per Section 10 of the City of Torrington Inland Wetlands and Watercourses Regulations, in carrying out the purpose and policies of Section 22(a)-41 of the CT General Statutes, including matters related to regulating, licensing and enforcing the provisions whereof, the Commission has taken into consideration all relevant facts and circumstances. The proposed regulated activities do not represent a significant activity per Section 2 of the City of Torrington Inland Wetlands and Watercourses Regulations. The Commission finds that there is no reasonable likelihood of adverse impact to the wetlands and watercourses from the regulated activities proposed.

NOW THEREFORE BE IT RESOLVED by the Inland Wetlands Commission of the City of Torrington that the aforementioned application is approved with the following conditions:

1. If the authorized activity is not completed within Five years from the issuance date of: **September 20, 2016**, said activity will cease and, if not previously revoked or specifically renewed or extended, this permit will be null and void. Any request to renew or extend the expiration date of a permit should be filed in accordance with the Inland Wetlands Regulations of the City of Torrington. Expired permits may not be renewed and the Inland Wetlands Commission may require a new application for regulated activities.
2. The permittee will notify the Inland Wetlands Enforcement Officer upon commencement of work and upon its completion.
3. All work and all regulated activities conducted pursuant to this authorization will be consistent with the terms and conditions of this permit. Any structures, excavation, fill, obstructions, encroachments, or regulated activities *not specifically identified and authorized herein* will constitute a violation of this permit and may result in its modification, suspension or revocation.
4. This authorization is not transferable without the written consent of the Inland Wetlands Commission.
5. In evaluating this application, the Inland Wetlands Commission has relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete, or misleading, this permit may be modified, suspended, or revoked and the permittee may be subject to any other remedies or penalties provided by law.
6. The permittee will employ the best management practices as outlined in the 2002 CT E&S Guidelines, March 2002 edition and all amendments, consistent with the terms and conditions of this permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands or watercourses. For information and technical assistance, contact the Wetlands Enforcement Officer. The permittee will immediately inform the Commission of any problems involving the wetlands or watercourses that have developed in the course of, or that is caused by, the authorized work.
7. No equipment or material including without limitation, fill, clippings, brush, construction materials, or debris, will be deposited, placed, or stored in any wetland or watercourse on or off site unless specifically authorized by this permit. Any such activity not authorized by this permit may be just cause for revocation of the permit.
8. This permit is subject to and does not derogate any rights or powers of the City of Torrington, conveys no property rights or exclusive privileges, and is subject to all public and private rights to all applicable federal, state and local laws. In conducting and maintaining any activities

authorized herein, the permittee may not cause pollution, impairment, or destruction of the inland wetlands and watercourses of Torrington.

9. If the activity authorized by the inland wetlands permit also involves activity or a project that requires zoning or subdivision approval, special permit, variance, or special exception, no work pursuant to the wetlands permit may begin until such approval is obtained.
10. The permittee will maintain sediment and erosion controls at the site in such an operable condition as to prevent the pollution of wetlands and watercourses. Said controls are to be inspected by the permittee for deficiencies at least once per week and immediately after rains. The permittee will correct any such deficiencies within 24 hours of said deficiency being found. The permittee will maintain such control measures until all areas of disturbed soils at the site are stabilized.
11. Erosion and sedimentation controls are installed and inspected **prior** to start of construction.

In response to the Intervention filed by the Torrington Water Company pursuant to Section 22a-19 of the Connecticut General Statutes, the Inland Wetlands Commission of the City of Torrington makes a finding that this proposal does not have a reasonable likelihood resulting in the unreasonable pollution, impairment, or destruction of the public trust in the air, water, or other natural resources of the State of Connecticut.

Vote to approve passes unanimously.

5. New Business – No New Business discussed

6. Staff Report

a. Agent Determination – 605 (613) Main Street, St. Maron’s Church, deck on piers within upland review area. Ms. Malanca explained to the Commission that this is an Eagle Scout project and all work is done by hand. The piers will be dug approximately 47’ from the Naugatuck River.

7. Adjournment

Motion made by Ms. Altman, seconded by Mr. Telman to adjourn the meeting at 7:35- vote unanimous.

Land Use Office