

**MINUTES - North Branford Conservation and Inland Wetlands and Watercourses Agency, Regular Meeting of Wednesday, September 24, 2014 - North Branford Town Hall, Town Council Chambers, North Branford, CT**

**INLAND WETLANDS & WATERCOURSES AGENCY AGENDA**

Chairman Scavo called the meeting to order at 6:09 P.M.

**ROLL CALL**

Present: Stephen Scavo, Regular Member, Chairman  
Gerry Fischbach, Regular Member  
Ashley Cloy Joiner, Regular Member  
Mark Perez, Regular Member

Town Staff Present: Carey Duques, Town Planner and Kurt Weiss, Town Engineer.

Chairman Scavo addressed the public and gave an overview of the primary responsibility of the Conservation & Inland Wetlands & Watercourses Agency, explaining they oversee actions that might have potential impact on inlands and wetlands. They are governed by State and Government guidelines within the wetlands and within a 100-foot buffer. Their focus is to look at any activities that would impact the wetlands

Chairman Scavo went on to explain the responsibility of Planning and Zoning stating that the Planning and Zoning Commission looks at site plans and addresses health, safety and welfare.

He informed the public of the next Planning and Zoning Meeting to be held on October 2<sup>nd</sup>.at 7:00 p.m. at Town Hall.

He also informed the public that this meeting is not a public hearing as such the public would not be allowed to speak.

Chairman Scavo announced a requested extension from Applicant William Crede on Application #2013/14-15 and read the letter addressed to the Town Planner from Dr. Crede. Chairman Scavo asked for a motion to postpone the applicant's application.

Member Perez made a motion to agree to the requested postponement by Applicant William Crede, seconded by Member Fischbach. With all in favor, motion passed.

The following Public Hearing and possible action was postponed at the applicant's request.

**2. PUBLIC HEARINGS:**

- A. Application #2013/14-5, Install Geothermal Loops in Linsley Lake and trenching to install polyethylene tubing from house to Lake within 100 ft. wetland buffer area affecting 960 sq. ft. within Linsley Lake and 160 sq. ft. of

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buffer area, 29 Off Twin Lakes Road, Assessor Map 4, Lot 11, R-40 Zone.  
Owner: William B. Crede, Applicant/Agent: Peter J. Tavino, Jr., P.E.

**3. POSSIBLE ACTION ON PUBLIC HEARING ITEM:**

- A. Application #2013/14-5, Install Geothermal Loops in Linsley Lake and trenching to install polyethylene tubing from house to Lake within 100 ft. wetland buffer area affecting 960 sq. ft. within Linsley Lake and 160 sq. ft. of buffer area, 29 Off Twin Lakes Road, Assessor Map 4, Lot 11, R-40 Zone.  
Owner: William B. Crede, Applicant/Agent: Peter J. Tavino, Jr., P.E.

**4. OLD BUSINESS**

- A. Application #2014/15-1, Development of a propane storage facility, office and parking at 40 Ciro Road within 100 ft wetland buffer area affecting 0.5 acre (21,000+ sq ft.) of buffer area. Assessor Map 27C, Lot 39-3, I-2 Zone. Owner Donald J. Fucci, Applicant/Agent: BPR, LLC/ Attorney Jeffrey Beatty.

Attorney Jeffrey Beatty, Robert Sonnichen, Engineer and Robert Russo, Wetland Scientist and Soil Engineer were present for the applicant.

Robert Sonnichsen of Waldo & Associates, 89 State Street, Guilford, CT spoke on behalf of applicants 2772 BPL, LLC, giving a history of the application. Mr. Sonnichen also presented any changes and additions that were done based on comments from Town Staff and East Shore Health District. Other items added included illumination plan for the site.

Both Town Planner Carey Duques and Town Engineer Kurt Weiss confirmed the new changes made and stated that all previously made comments had been addressed and they had no new comments.

Member Joiner moved, seconded by Member Perez to adjourn the meeting at 6:21 p.m. and move to North Branford Intermediate School (NBIS) cafeteria as Town Council Chambers was determined to be over capacity by the Fire Marshal. With all in favor, motion passed.

Chairman Scavo asked for a motion to reconvened the meeting at 6:57 p.m. at NBIS cafeteria

Member Joyner made a motion to reconvene at NBIS cafeteria, seconded by Member Perez. With all in Favor, the motion passed.

Acknowledging that there were new people in attendance, Chairman Scavo repeated his previously stated information both on the responsibilities of the Conservation and Inland

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Wetlands and Watercourses Agency as well as the responsibilities of the Planning and Zoning Commission. He additionally gave a brief history of the application.

Town Planner Carey Duques also repeated her information on additions to the site plan. She also stated that there were no outstanding comments, all previous comments had been addressed.

Fire Chief William Seward informed members that on September 23<sup>rd</sup> a fixed fire protection system was added.

Town Engineer Kurt Weiss stated that all previously stated concerns had been addressed and he had no outstanding comments.

Bob Russo, certified soil scientist and professional sedimentation control engineer spoke regarding the changes made and gave an in-depth explanation on what the potential positive ecological changes would be. He informed Agency members that the footprint on this proposed application remains the same from the previously approved site plan. In his opinion the proposed application shows positive changes to address the invasive vegetation and improve the functioning of the basin. He also felt there would be no impact on the wetlands. In closing Mr. Russo made the statement that the plan previously approved for a different application for the site had a larger impact on the wetlands.

There were questions from Member Fischbach regarding the elimination of the Phragmites as well as condition of the wetlands after significant rainfall.

In reply to the questions, Mr. Russo gave an explanation of their plan to cut down on the invasive vegetation with a program to cut back the Phragmites and replace with less invasive plantings. He spoke about their monitoring program in place with reports given to the Town on their progress. In speaking about the condition of the wetlands after a rainier season, Mr. Russo explained the vegetation that is already present (cat tails vs. phragmites), shows evidence that the wetlands maintain stability.

Chairman Scavo questioned the success of reduction of the phragmites and the future of the pond.

Mr. Russo explained his long-term plan to cut and treat the phragmites to establish more desirable plantings. He stated that he would pick the type and the location of the more desirable vegetation.

After a request from Member Perez, Mr. Russo again stated the vegetation would be monitored and letters sent to staff on the progress.

Member Fischbach opened discussion regarding the excavated detention basin for the pond.

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Mr. Russo explained the detention basin was designed to take run off from this site and also accommodate the industrial park area. He additionally commented on the pipe design and for the benefit of the public spoke about the vegetation and how it helps control sediment and organic matter as well as pollutants. He stated that the vegetation functions to clean the water before it leaves the basin.

Kurt Weiss, Town Engineer repeated that he is satisfied on the updated site.

Carey Duques stated that she as well as all departments had reviewed the plan, with each department submitting comments. To date all comments and recommendation have been addressed.

Member Joyner had numerous questions for the applicant's team including an emergency plan for any potential fire ash going into Lake Gallard, safety requirements from OSHA and EPA, storage capacity of the 5 trucks being housed on the site, strategy for car sparks due to the close proximity the basin has to Ciro Road.

Mr. Russo stated there is not a plan to filter water in Lake Gallard due to the unlikely chance of fire actually happening. He stated the recorded incidence of fire is extremely rare.

Robert Sonnichen opened discussion regarding EPA and OSHA guidance. He stated this particular facility is exempt because the propane is being held for retail sale.

Member Joiner disagreed and stated that in her opinion they would not be exempt. She sited their program would fall under program three not one. She maintained they would not be exempt from EPA and OSHA guidelines.

Ms. Jody Ameden, fire consultant for the applicant spoke to the question on capacity of the trucks stored on site. She stated that although there are five spaces they currently have two trucks, which store 2800 gallons each when full. Ms. Ameden also stated there have been a number of safety devices put into place to ensure safety to the community.

Questioned about the relevance of questions to inland wetlands, Member Joiner explained her relevance of all questions to the impact on the wetlands.

Member Joiner then asked who would be responsible for restoring, cleaning, etc., if there was a worst-case scenario.

Bob Russo reiterated the unlikely possibility that an event would occur. Mr. Russo gave an overview of the wind and weather conditions in New England and how these combine to create a very low likelihood of an adverse event. He reminded members they have brought in a fire expert with 25 years experience in propane fuel.

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Mr. Russo then gave an overview of a scenario in an unlikely event explaining the natural response of the vegetation when exposed to a fire.

There was discussion regarding a potential fire with hazardous material falling into the catch basin.

Member Joiner requested the opportunity to address the Fire Chief.

North Branford Fire Chief Bill Seward gave a history of his background and addressed the Agency.

Member Joiner asked the Chief questions regarding number of members of the fire department, percentage of those under 18, dealing with a worst-case scenario.

Chief Seward stated that there are 110 members among 4 companies, this does not include members under the age of 18. He stated in his opinion they would be able to handle any worst-case scenario and gave an example of a potential worst-case scenario fire.

Attorney Beatty gave closing remarks, stating that their application has been presented along with expert testimony as well as satisfying any comments from Town Staff. He stated that all evidence before them has met the criteria. He also stated that the applicant has to believe the members of the panel are impartial. He submitted an editorial letter sent by Member Joiner and spoke about her line of questioning stating that these factors put that impartiality in question. He stated that he believes the applicant has satisfied criteria and the application should be approved.

Chief Seward suggested new information be updated and referred members to the fire safety plan on page 20 regarding the fire flow test. His updated test was based on the hydraulic calculation which showed they have a flow of 1188 gallons per minute.

Member Fischbach made a motion to table the application until the next meeting to be held on October 22, 2014, seconded by Member Joiner. With all in favor, motion passed.

Member Fischbach explained that due to the accusation that a member is showing partiality members decided it would be best to consult with the Town Attorney.

Member Fischbach made a motion to amend the agenda to move item 6 before item 5, seconded by Member Joiner. With all in favor, motion passed.

**6. VIOLATION**

- A. Violation at 30 Walnut Lane, Assessor Map 73 Lot 28A, Property Owner: John Mirakian violation activity: the filling of a watercourse, installation of a pipe and stockpiling of material within 100 feet of a wetlands and

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watercourse in the property's rear yard without a permit from IWWA. Said activity in a watercourse is a violation of Section 22a-42a(c) (1) of the Connecticut General Statutes and Sections 6.1 and 6.2 of the Inland Wetlands and Watercourses Regulations for the Town of North Branford, Connecticut.

- B.** Possible Action on Cease and Desist/Stop Work Order dated September 11, 2014.

Town Planner Carey Duques gave members an overview of the sequence of events that led up to the Cease and Desist/Stop Work Order.

Town Engineer Kurt Weiss stated his concern with piping work done, stating it has to be done correctly and with appropriate calculations.

The property owner explained to Agency Members his reasoning for doing work within the subject area.

There was discussion regarding protocol within the wetlands as well as the best way for the property owner to move forward with this type of work.

Chairman Scavo asked Town Engineer Kurt Weiss for his opinion on the best plan of action going forward.

Town Engineer Kurt Weiss explained the two options would be to remove all work, or leave it and submit an application to the Agency.

Chairman Scavo suggested that the applicant get a civil engineer, and the appropriate paperwork be submitted to the Town. He reminded the applicant that he could not do any more work.

Town Planner Carey Duques recommended the Commission do a site walk of the property before the next meeting. She stated the applicant should file an application and attend the next meeting on October 22<sup>nd</sup>.

Member Joiner made a motion to keep the cease and desist in effect until further notice, seconded by Member Fischbach. With all in favor, motion passed.

## **5. NEW BUSINESS**

- A.** Application #2014/15-2, Storm Drainage improvements in Reed's Gap Road and portions of 171 and 191 Reeds Gap Road including replacing the existing 15 inch pipe with a 30 inch pipe within 100 ft wetland buffer area. Portions of Assessor Maps 75C, Lot 1 Zoned R-80 and Map 73 Lot 37 Zoned R040  
Owner/Applicant: Town of North Branford Agent: Kurt Weiss, Town Engineer.

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Town Engineer Kurt Weiss gave an overview on the application, explaining work that has been done over the past three years and the work that needs to be done to rectify any problems. Mr. Weiss stated that although there are no wetlands on the site, there is run off.

Member Fischbach moved, seconded by Member Joyner to approve the IWWA Application #2014/15-2, Storm Drainage improvements in Reed's Gap Road and portions of 171 and 191 Reeds Gap Road including replacing the existing 15 inch pipe with a 30 inch pipe within 100 ft wetland buffer area. Portions of Assessor Maps 75C, Lot 1 Zoned R-80 and Map 73 Lot 37 Zoned R040 Owner/Applicant: Town of North Branford Agent: Kurt Weiss, Town Engineer as contained in submitted application documents and entitled maps "Town of North Branford, Connecticut Storm Drainage Improvements Reeds Gap Road' Plan and Profile Scale Horiz 1"=10" Vert. 1"=4" Date September 2014 North Branford Engineering Department", with the following standard conditions:

1. Regulated activities granted shall be implemented by the permittee in accordance with the timing, location, duration and intent as proposed and approved by the Agency.
4. All sedimentation and erosion control measures shall be installed and inspected by the Town Engineer prior to commencing work. These controls must be maintained during and after construction and removed prior to requesting bond release. The entire site must be stabilized prior to bond release.
5. The permit must be signed and filed with the Town Clerk. A copy of the signed permit with the Town Clerk's Attestation must be returned to the Agency's Office. The permit shall be good for five (5) years from date of approval. The permittee shall have the permit readily available and shall produce it for inspection upon request. The permit is issued only for those activities approved by the Inland Wetlands and Watercourses Agency.
6. The Agency's agent must be notified (in writing) forty-eight (48) hours prior to the start of any construction.
7. During the duration of the regulated activity, the Chairman of the Agency or the Inland Wetlands Enforcement Officer shall have permission to enter upon the subject property at reasonable times for the purposes of viewing and inspecting the conduct of said activity.
8. No work other than maintenance of sediment and erosion control shall be performed during significant rainfall of one (1) inch or more within a twenty-four (24) hour period. All work shall be performed between 8:00 a.m. and 5:00 p.m., Monday through Friday. No work may be conducted on legal holidays or weekends without the expressed approval of the Agency.

And the following special condition:

16. Adherence to the requirements of the Regional Water Authority in its memorandum dated 9/23/2014 (see attachment).

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The motion passed 4-0 in favor with members Scavo Joiner, Fischbach and Perez voting.

**7. OTHER BUSINESS**

Approval of August 27, 2014 IWWA Meeting Minutes

Member Fischbach made a motion to approve the minutes of the June 25, 2014 IWWA meeting, seconded by Member Perez. The motion passed unanimously.

**8. WETLAND ENFORCEMENT OFFICER'S REPORT**

There was discussion on the upcoming annual meeting.

**9. ADJOURNMENT:**

Member Fischbach made a motion to adjourn, seconded by Member Perez. The motion passed unanimously.

Respectfully submitted,

Respectfully submitted,

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Mary Caruso, Recording Secretary

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Stephen Scavo, Chairman