



Town of Woodbury

Inland Wetlands and Watercourses Agency

281 Main Street South
Woodbury, CT 06798
203.263.3467 • www.woodburyct.org

MINUTES – JANUARY 9, 2023

REGULAR MEETING

7:00 PM – Senior/Community Center, 265 Main St. South, Woodbury, CT 06798

MEMBERS PRESENT

Mary Tyrrell
Marty Newell
Kyle Turoczi
Mary Tyrrell
Earl Gillette, Alternate
Michael McAloon, Alternate
Don Richards, Alternate

MEMBERS ABSENT

Wes Clow
Ernest Werner

NOTED OTHERS PRESENT – Town Planner Agresta, Vince LaFontan (Flanders), Darren McGovern, Atty. Michael McVerry, Matt Bruton PE, Ron Wolff PE

OPENING OF MEETING

- Call to Order – Meeting commenced at 7:03 p.m.
- Seating of Members / Alternates – Seated for the meeting were members Tyrrell, Newell, Turoczi, and alternates Gillette and Richards
- Conflict of Interest Reminder (CGS §8-11 & Woodbury Town Charter Section 901)

ELECTION OF OFFICERS

Alternate Richards was tasked with heading the nominating committee. Those nominated were Mary Tyrrell as Chairman, Marty Newell as Vice Chairman and Kyle Turoczi as Secretary.

MOTION:

To elect Mary Tyrrell as Chairman, Marty Newell as Vice Chairman and Kyle Turoczi as Secretary.

Made by **RICHARDS**, Seconded by **GILLETTE**

Vote: 5-0-0 – **Approved** – Motion **Passed**

Aye Tyrrell, Newell, Turoczi, Richards, Gillette

Nay None

Abstain None

PUBLIC HEARINGS – None

NEW APPLICATIONS

- **22-IW-0030 – Judson Avenue (Manville Kettle Preserve) / Map 105, Lot 4A**
Flanders Nature Center & Land Trust, Vince LaFontan (owner) – Seeking Jurisdictional Ruling under §4.2 for the proposed removal of invasive plant species using mechanical and manual means.

Member Turoczi recused himself as he has a conflict of interest (his business would be doing the work). Chairman Tyrrell unseated Member Turoczi, seating Alternate McAloon.

Vince LaFontan from Flanders Nature Center was present for the discussion. He noted that Flanders is looking to do further invasive removal at the Manville Kettle property in order to bring it back to a meadow state. They mow twice a year. There is an abundance of burning bush and multiflora rose. They are trying to keep the woody invasives at bay with grasses. Flanders does not use herbicides, just manual plant removal. There are large bushes they will pull totally out. It was noted that there is a letter of support from neighbor Andrew Ward in the file. If the area is really disturbed, they will reseed. Work would be done in the Spring when appropriate. The water level of the kettle was questioned. Regulations were reviewed as to what is and is not permitted. The concern was with the use of mechanical equipment. Reference was made to §4.3. If the project was being done completely by hand, that would be less of a concern. Once mechanical equipment is brought into the area it changes things. The Chairman doesn't want to approve things based on who the applicant is and what they are doing. The main difference factor is the use of equipment. The Chairman noted that the Agency would be in favor of what they are trying to accomplish, but an application should be submitted as equipment will be used and they should follow what their regulations require. If the work was all being done by hand, there would be less of a need for an application, they could rule it jurisdictional. Doing it by hand you are not opening up a very large area, there isn't a risk of having a vehicle with fuel adding more disturbance, etc. Similar activities before the Agency have been required to submit full applications. A video showing the equipment and how it is used to pull the plants out was brought up and shown to the Agency as reference. Planner Agresta noted that the request is also about removal and in §4.2 it specifies "provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal," he didn't see how they could do this while taking plants away. There will also be some level of native species loss involved with the removal of invasive materials with a machine. Planner Agresta also noted that although he is confident Flanders will do a great job, allowing this activity to go forward without need for a permit using mechanical means would set a precedence. There was discussion about whether this would set a precedence, it being noted this is a determination that this activity does not require a permit. If they determine it to be a jurisdictional ruling to remove invasive species using equipment like this, then anyone can do it without a permit. Requiring a permit allows the Agency control and to confirm activities are done using best management practices to protect the wetlands. The Agency is in favor of the proposal, it is just the process of the approval that is in question. By approving this you are saying that invasives removal by these means (by hand and by mechanical means) is permitted for anybody, with an application you can require conditions. An application approved would remove the ability for similar activities to be considered separately. Mr. LaFontan will go back to his board to decide how they want to proceed. It was explained that a regular application would be valid for 5 years and could potentially be modified if situations arise. Consensus of the Agency was not to approve this request as a jurisdictional ruling, that a full application would be required to be submitted.

MOTION:

The Agency at this time does not believe that the application falls within its jurisdictional ruling and has determined that a full application is required for this activity.

Made by **RICHARDS**, Seconded by **GILLETTE**

Vote: 4-0-1 – **Approved** – Motion **Passed**

Aye Tyrrell, Richards, Gillette, McAloon

Nay Newell

Abstain None

Member Newell voted against feeling that the material they were using would not be a danger to the wetlands, they are a wonderful agency and will do a good job. She felt that the (Wetlands) Agency looks at all applications individually.

- **23-IW-0001 – 93 Weekepeemee Road / Map 40, Lot 48**
Darren McGovern (owner) – Proposed Remediation re: 21-ENF-0001

Darren McGovern and Attorney Michael McVerry were present for the application. Attorney McVerry noted that Mr. McGovern was cited by the Agency for removing trees in the upland review area on his property and unknowingly on the neighbor's property without a permit. He noted the Agency's Fall site walk of the property. Two reports have been provided by their consultant, George Logan. Mr. Logan could not be present for the meeting; it was requested that the Agency accept the application and table discussion until the next meeting so the applicant's soils consultant could be present.

(Member Turoczi was reseated and Alternate McAloon was unseated).

Chairman Tyrrell noted receipt of the two reports. She was concerned that there was not much remediation proposed. There does not seem to be much of anything proposed, just letting things heal itself up. Attorney McVerry indicated the first report suggested plantings. The second report indicated that the brush pile could remain in place. The Agency had questions and concerns; Attorney McVerry again requested that they table until their consultant could be present. The application will be tabled until the February 14, 2023, meeting upon request of the applicant.

PENDING APPLICATIONS / DELIBERATIONS – None

ENFORCEMENT & WETLANDS UPDATE

- **21-ENF-0001 – 93 Weekepeemee Road / Map 40 / Lot 48 / Darren McGovern**
NV – Clearing, excavating and grading, and wood pile within a regulated area absent permits.

Tabled

- **22-ENF-0015 – Minortown Road / Map 10, Lot 9 / OS-60 District / Raymond Hardisty and Janet Lawson**
NV – Unauthorized site activity (including excavation, deposition and alteration of ground coverage and contours, as well as drainage conditions) within a regulated area.

No new information was received, nor application. Chairman Tyrrell indicated that she had seen photos from Mr. Hardisty's brother John. These showed installed haybales; however, they were not staked in. They will await application and submittal of the photos to the Land Use Office. The Land Use Office to follow-up with the property owner as to status.

- **22-ENF-0019 – 922 Main Street North / Map 25, Lot 28 / OS-60 District / Amanda Soucy**
NV – Unauthorized site activity and construction (including excavation, deposition and alteration of ground coverage and contours, as well as drainage conditions within a regulated area.

No new information had been submitted. It was reminded that the Agency had requested they stabilize the site with spreading of woodchips. The Agency requested the Land Use Office to contact the owner for an update, whether the woodchips were installed and if a plan is being worked on.

- **18-IW-1621 – 614 Main Street South / Map 102, Lot 25 / MQ District / Napoli Woodbury LLC**
IWWA Review of Constructed Site Conditions / Bond Status – Dollar General

Matthew Bruton, PE of BL Companies was present for the discussion. It was noted that a site walk was held the previous day. The Chairman noted the areas looked at on the site and the areas that may need to be addressed due to erosion. The conditions of the approval were reviewed condition by condition for completeness. Pre-Conditions were deemed complete. Site Development conditions, some were complete, and some are ongoing for the life of the property. Issues with condition #15 regarding the exclusionary fence were discussed. Black ties were used, and they are not effective as they seem to break with age. It was suggested by Alternate Richards that aluminum wire ties should be used in place of the black ties to extend their longevity. It was requested that the Agency be provided with specification detail for the life expectancy of the fencing. Mr. Bruton is confirming with the contractor/developer that Condition #28 was done and will be confirming with paperwork to support the response. Condition #31 regarding underdrains, none were added/none were needed. Maintenance Monitoring and Reporting Conditions were then reviewed. Condition #33 regarding invasive species reporting, a couple reports were provided, years 2022 and 2023 are needed. These are ongoing. The report for 2022 is past due, Mr. Bruton is looking into it and hopes to have an update provided later in the week. Conditions #36 & #37 bioretention monitoring and reporting are required to be submitted.

Mr. Bruton requested some reductions in the bonds. Some bonds held were held for preconstruction activities which have been done and complete for quite some time. They understand repairing the fencing and making sure the landscaping is viable is ongoing.

Alternate Richards questioned if the landscaper dies who is responsible for replacement. Mr. Bruton responded that the landscaper has an obligation to replace plantings if they die within a year, thereafter the owner/applicant. The wetlands approval requires they be replaced as ongoing maintenance of the site. The owner/applicant would be responsible to make sure things survive. Member Turoczi recommended replacing failing plantings with those that thrive in sandy soils (many of the plants specified were FAC wetland plants that require a higher degree of hydrology), something more appropriate for those soils. He observed there are some invasives, however, these are everywhere in town. It was discussed that the tenant probably has responsibilities to replace plantings as part of their lease.

Bond reduction was discussed. Planner Agresta suggested the Agency look at the percentage of what has been completed. There's a bit in each one that is still outstanding. They should maintain some bonding as there is still ongoing reporting and maintenance, but they don't need to keep it all. It was decided to cut two of the bonds in half and release the entire erosion control bond as it was a preconstruction bond and there are no soil and erosion devices in place to maintain anymore.

MOTION:

To reduce the bonds as follows:

- Full release of \$18,000.00 Erosion and Sediment Control Bond
- Partial release (50%) of \$18,000.00 Invasive Species Management and Monitoring Bond (maintaining a reduced bond in the amount of \$9,000.00)
- Partial release (50%) of \$10,000.00 Stormwater Management Bond (maintaining a reduced bond in the amount of \$5,000.00)

Made by **NEWELL**, Seconded by **RICHARDS**

Vote: 5-0-0 – **Approved** – Motion Passed

Ayes Gillette, Newell, Richards, Turoczi, Tyrrell

Nays None

Abstain None

MOTION:

To amend the agenda order to take up Privilege of the Floor (to accommodate people present)

Made by **TUROCZI**, Seconded by **RICHARDS**

Vote: 5-0-0 – **Approved** – Motion Passed

Ayes Tyrrell, Newell, Turoczi, Richards, Gillette

Nays None

Abstain None

Ron Wolff, PE representing applicants for a project on 75 Bacon Pond Road and Sanford Road was present for the discussion. His client was concerned that they needed to receive approval from the Wetlands Agency for their project and didn't want to miss any requirements of the application process. Mr. Wolff explained that a request for jurisdictional ruling had been submitted on December 30, 2022; however, it was not included on this meeting's agenda. Planner Agresta noted it was to be scheduled for the next meeting due to administrative office shortages last week.

Mr. Wolff explained that the project activities are not within any of the site's regulated upland review areas and no activity is proposed in a wetland area. An application is going before the Zoning Commission. Mr. Wolff described the property and the project to construct two commercial buildings. Plans were reviewed with the Agency. It was noted that it is about 320 feet from the proposed development to the edge of the regulated watercourse. The area is to remain wooded, which provides a good size buffer.

Planner Agresta offered that the project was not proposing a regulated activity (nothing within 100 feet of the wetlands), they were not proposing anything within 100 feet of the wetlands involving a permitted activity by right, nor were they proposing a nonregulated activity that's allowed under the code within 100 feet of the site wetlands/watercourses. He had advised that there was nothing proposed that isn't there today, therefore his position was that there is no need or requirement for a wetland permit or jurisdictional ruling, but he did advise that they property owner should confirm this with their attorney. Administrative issues occurred that omitted the item from the agenda. If the Agency chooses to entertain the Jurisdictional Application, they should add it to the agenda or they could note that there is no regulated activity, no permitted activity by right, no nonregulated activity and no permit is required.

Chairman Tyrrell stated they could indicate for the record that they attended and gave a presentation and showed with use of maps and the presence of an engineer that there were no wetlands within the area of proposed activity. Agency members felt comfortable with the project not coming before them as a formal application. It was noted by Member Turoczi that they could look at it for impact even if it is outside the regulated area. Members did not see any potential impact and appreciated the applicant coming before them.

ADMINISTRATIVE

Meeting Minutes – 12/12/22

MOTION: To accept the minutes (of the 12/12/22 meeting) as presented.

Made by **NEWELL**, Seconded by **TUROCZI**

Vote: 5-0-0 – **Approved** – Motion Passed

Ayes Tyrrell, Newell, Turoczi, Richards, Gillette

Nays None

Abstain None

CORRESPONDENCE

Correspondence included information on a training seminar being offered by the Connecticut Bar Association taking place on Saturday, March 11, 2023.

PRIVILEGE OF THE FLOOR

Alternate Gillette questioned a bulldozer at Teixeira’s property at 466 Flanders Road. He also noted that he observed rip rap, used for the fire pond at 15 Woodside Circle, had been thrown onto the ice. It was questioned if this might be a concern.

ADJOURNMENT

MOTION:

To adjourn the meeting at 8:32 p.m.
Made by NEWELL with no objections.

Filed Subject to Approval

Respectfully Submitted

Anne Firlings

Anne Firlings, Clerk

RECEIVED & FILED
IN WOODBURY, CT

This 11th day of Jan 2022

at 2:45 o'clock PM

Maria M. Mancini
Town Clerk