

Town of Woodbury

Inland Wetlands & Watercourses Agency

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

MINUTES – NOVEMBER 25, 2024

REGULAR MEETING

7:30 P.M. – SENIOR/COMMUNITY CENTER, 265 Main St. South

MEMBERS PRESENT:

Earl Gillette, Alternate
Marty Newell, Vice Chair
Don Richards
Kyle Turoczi, Secretary (7:51 p.m.)
Mary Tyrrell, Chair (8:26 p.m.)

MEMBERS ABSENT:

Michael McAloon, Alternate
Timothy Pabst, Alternate
Ernest Werner

ALSO PRESENT: Will Agresta (Town Planner), Atty. Kaelin (Town Attorney), James Bolanis, Dan Fusco, Atty. Judd, Doug Lindell, John Mack, Charlie Spath, Darren McGovern, Atty. McVerry, Nick Bennett, Anthony Mennone, Larry McDonald and other interested members of the public.

OPENING OF MEETING

Call to Order – Vice Chair Newell convened the meeting at 7:35 p.m.

Seating of Members / Alternates - Seated were regular members Newell, Richards and Alternate Gillette
Conflict of Interest Reminder (CGS Section 8-11 & Woodbury Town Charter Section 901)

NEW APPLICATIONS

24-IW-0037 – 237 Bacon Pond Road / Map 86, Lot 17-1, OS-60 District / James L. Bolanis, Trustee, the James L. Bolanis Revocable Trust of 2018 (applicant/owner) / Within an Upland Review Area: Installation of whole house generator and a 120 gallon propane storage tank with associated line trenching.

James Bolanis was present for the discussion. He is applying to install a generator and propane storage tank. Members reviewed the plot plans provided with the application. He was unsure as to the exact distance to the wetlands on the property. He assured that everything will be done strictly to code. Member Gillette noted that the plans reflect the distance to the wetlands to be 65 ft. Members expressed no further questions or concerns and requested a draft motion for the next meeting.

PENDING APPLICATIONS / DELIBERATIONS

24-IW-0030 – 197 Minortown Road / Map 25, Lot 2A-2 / OS-60 District / Michelle Fusco (applicant/owner), Ryan and Pilicy (agent)

- (1) ***Subdivision Amendment Review Report to Planning Commission:*** Amendment of Original Subdivision seeking the removal of original subdivision restriction permitting only a single driveway access shared by both lots of the original subdivision.
- (2) ***Wetlands/Watercourse Permit:*** Within a regulated upland review area proposed second, milled access drive on the property.

Atty. Judd and Dan Fusco were present for the discussion. Members had been provided sections of the Americans with Disabilities Act that were quoted at the previous meeting. The full driveway is being requested due to the topography of the property itself. Widening it extends it closer to the wetlands in one direction and in the other direction it covers the well access. It would also be about a 90 degree hairpin turn; this would make it difficult for EMS access.

Planner Agresta stated that he would take issue that the driveway is not feasible. This could be engineered to get around. He did not believe that it would be a 90 degree turn, although it might be close. It is a driveway, not a road so would not necessarily get closer to the wetlands. The purpose for this is only when you need to accommodate the access. It is not an everyday in and out access for everyone that resides in the home.

Atty. Judd noted that three expert reports do not make a finding of an impact. Two reports say there is no adverse impact and one states the millings should be expanded. The secondary portion of the application is the ADA accommodation. The Agency would need to demonstrate that allowing this the would fundamentally alter the nature of the service, program or activity. The Planning issue is a separate issue. A legal case was submitted for the record (regarding Town of Cromwell v.s. FHA and ADA).

Timeline for the approval process was questioned, they have to the next meeting to decide.

Planner Agresta noted that the property owners have a right to ask and to have a reasonable accommodation. He referenced his memo. His opinion is that they can get the driveway to the back of the house. He does not understand why a second curb cut is a barrier to that. The Agency cannot grant the second curb cut because the property does not allow it and they need to make a report to the Planning Commission who are the only ones that can change that requirement.

Atty. Judd explained that they are asking for the reasonable accommodation because the driveway is already there, as opposed to engineering a driveway to make it safe. The driveway has been there, just not milled the whole time.

Planner Agresta noted that the driveway in dispute is unpermitted and was not there at the time of the subdivision, there are aerial photos of the property prior to the subdivision and no driveway was there. It was farm field right up to the edge of the road. Mr. Fusco argued that according to his neighbor the access was there well before the house was built.

Atty. Judd conceded that there was never a permit for this driveway access, however, it is there now and they are asking for a reasonable accommodation to allow it to continue to be there.

Atty. Kaelin advised the Agency that the ADA issue is not an issue for them right now. They would get to that if they had a finding under their regulations that they couldn't have any access along the back under any circumstance and it does sound like the elderly residents at the back need access. He reminded that this issue came about from an enforcement action, it was not an application that was denied and they are coming back with an ADA argument. This is an application in response to the enforcement. The Agency can look at how they want the driveway. They can have access to the back of

the house, it is how, where and under what terms and conditions under the Inland Wetlands Regulations.

It was asked if the access had to be a driveway. Atty. Kaelin responded that it is understood that they require vehicular access to get the elderly residents in and out of the back of the home.

Member Richards noted he would like to hear from other members of the Agency who were not present before rendering a decision. Planner Agresta noted that the Agency needs to make a report to the Planning Commission and that they are running out of time. The Planning Commission cannot act without having the report.

Atty. Judd stated that they would grant an extension until the first meeting in January and would follow up in writing/email.

This item was tabled until the next meeting.

It was noted that Member Turoczi arrived at the meeting at 7:51 p.m. and was then seated.

24-IW-0034 – 300 Minortown Road / Map 10, Lot 9 / OS-60 District / Doug Lindell (applicant/owner) / Within an Upland Review Area: Construction of a driveway with wetland crossing over an existing pathway (approximately 1,000 linear feet of the driveway is within the upland review area).

John Mack was present for the discussion. He reviewed revisions to plans after hearing comments from the Agency and public at the previous meeting. Hard copies were not submitted; however, it was noted that an email had been sent to Planner Agresta on November 22nd.

Charlie Spath indicated that they made changes to the soil and erosion plans adding sedimentation ponds. They are waiting on the planting plan from the soil scientist.

Mr. Mack explained that there was an existing pipe at the beginning of the driveway which was not doing anything. This has been relocated, they have lowered the pipe and added a swale. This will actually do something with the stormwater going underneath the driveway. An existing 36 in. pipe has been replaced with a 60 in. pipe. A swale was added for the stormwater to travel down the downhill side of the pipe. Two sediment infiltration basins have been added to the plans. William Kenny, Soil Scientist will prepare the associated planting plan. Temporary swale haybales and silt fencing will be used to protect the wetlands.

It was confirmed that the entire driveway will not be paved. It was questioned how the transition areas will not get disturbed; Mr. Mack explained the plans with the Agency.

Planner Agresta informed the Agency that a petition was received by the Land Use Office on Friday (11/22/24). He reminded the Agency that their regulations state that they are not to have a public hearing unless there will be a significant impact or the Agency feels it is in the public interest to have a public hearing.

The petition had been reviewed by the Planner. It was signed by twenty five people; however, it appears that three of those are not residents making signing the petition invalid. In addition it came in eleven days past the time that it was supposed to come in also making it invalid. Planner Agresta

reviewed the statutory time frames with the Agency. He advised that it should be clear if the Agency is requesting the applicant for an extension for the purpose of having a hearing or for obtaining the required information to decide.

Charlie Spath questioned the Agency's process. He indicated that there is not really an impact to the wetlands. It is one residence and doesn't feel it warrants a public hearing. No matter what, the property needs to be accessed.

Member Turoczi felt that moving the pipe and putting the swale in is addressing his concerns. He indicated the wetland impact is minimal.

Vice Chairman Newell did not feel that a public hearing was necessary. If they have an extension, it would be to work towards getting a complete application.

The Public was given a chance at the previous meeting to voice their concerns.

Mr. Spath noted that they would grant an extension to finish the application and would follow up with a letter granting the extension to the first meeting in January.

24-IW-0035 – 93 Weekepeemee Road / Map 40, Lot 48 / OS-100 District / Darren McGovern (applicant/owner) / Remediation of 21-ENF-0001 (Prior Remediation Approval 23-IW-0001 not implemented and now expired) / Within an Upland Review Area: Remediation for unauthorized tree/shrub clearing, excavation, and grading, and deposition of cut trees and brush within regulated area absent permits.

Atty. McVerry and property owner Darren McGovern were present for the discussion. Atty. McVerry noted that a site walk was conducted the previous day and that the four members present viewed the site. Mr. Logan's report was referred to indicating that he did not see a need for additional work to be done that the site had essentially restored itself.

Member Gillette noted that there was growth coming out of the cut stumps (coppice). Member Turoczi noting that there was additional growth that were not coppice. There were still invasives present, but the ground was completely covered with vegetation.

It was noted that the brush pile was found, half of it had been moved. A bare spot of concern was noted, Member Turoczi indicated that putting anything on it now would be a waste of time. It is gravel and he did not observe any indication of erosion. Trees that were there appeared healthy.

Consensus was that they could close this issue out as long as the property owner does not go back in and cause any new disturbance. Should the owner need to do anything on the property in the future, he was advised he would first need to obtain a permit. A draft motion was requested for the next meeting.

24-IW-0036 – 401 Middle Road Turnpike / Map 10, Lot 1C / OS-60 District / New England Aquatic Services, LLC (agent); Davis Family Trust (owner) / Within a Wetland/Watercourse and Upland Review Area: Pond dredging of a portion of pond to remove sediments using a hydraulic suction; dewatering and onsite dispersal of dried sediments.

A draft motion was reviewed by the Agency.

MOTION:

To approve application 24-IW-0036 for property located at 401 Middle Road Tpke., per draft resolution dated 11/25/24, as presented.

Moved by **NEWELL**, Seconded by **TUROCZI**

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

Aye	Gillette, Newell, Richards, Turoczi
Nay	None
Abstain	None

ENFORCEMENT & WETLANDS UPDATE

24-ENF-IW04 – 544 Old Sherman Hill Road / Map 2, Lot 5 / OS-80 / Nicholas Bennett

Unauthorized and non-permitted driveway installation, parking/storage area, vegetation clearing and grading, dumping of tree stumps/debris and storage of contractor materials and equipment within wetlands/watercourses upland review area.

Nick Bennett was present to update the Agency on his progress. He stated that he had done work over the weekend and got rid of about 450 yards of fill. There is still more to go. Mr. Bennett shared a photo of a soil pile at the site. They are working on continued removal of the items. The mafia block wall is visible. Mr. Bennett explained that the process is time consuming to truck the materials off site.

Member Gillette questioned if the sander had been removed. It has not been removed and is too muddy at this time to do so.

Mr. Bennett stated the site has drastically improved from when the Agency last saw it. Members are welcome to go on site to view for themselves. The firewood will probably be the next step. Mr. Bennett should continue to work on it and keep the Agency up to date on status. This will remain on the agenda for the time being.

MOTION:

To adjust the agenda to accommodate those present to speak under Privilege of the Floor.

Moved by **TUROCZI**, Seconded by **RICHARDS**

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

Aye	Gillette, Newell, Richards, Turoczi
Nay	None
Abstain	None

PRIVILEGE OF THE FLOOR

- Larry McDonald, 320 Minortown Road – Mr. McDonald indicated that the 60 in. pipe that is proposed resolves his concerns. He questioned the extension that was granted and timing for a public hearing. The Planner explained that the Agency opted to accept an extension for a decision, consensus being that they did not find a public hearing was required.

- Debbie Taylor, 306 Minortown Road – Ms. Taylor expressed concerns with how the driveway will be engineered and any effects on her well and leach fields. She also questioned the removal of trees for this process and any impacts that might have on the wetlands.
- Anthony Mennone, 262 Minortown Road – Mr. Mennone expressed concerns with the effect of runoff on the stream. He also indicated they have a hand dug well that they have gone through lengths to protect. He is concerned that their well could be contaminated if the job is not done correctly. He doesn't want someone else's runoff to bring contaminants into his water.
- Nick Bothos, 280 Minortown Road – Mr. Bothos noted that their backyard already floods a good amount and every time it rains their basement floods. He wants to be sure that this project is done correctly so it doesn't diminish his whole backyard.

Chairman Tyrrell arrived at the meeting at 8:26 p.m. and was seated.

- **23-ENF-0002 – 197 Minortown Road / Map 25, Lot 2A-2 / OS-60 District / Michelle Fusco**
Tabled.
- **24-ENF-IW04 – 544 Old Sherman Hill Road / Map 2, Lot 5 / OS-80 / Nicholas Bennett**
Unauthorized and non-permitted driveway installation, parking/storage area, vegetation clearing and grading, dumping of tree stumps/debris and storage of contractor materials and equipment within wetlands/watercourses upland review area.
This item was discussed earlier in the meeting.
- **24-ENF-IW02 – 83 Park Road / Map 103, Lot 36A / OS-60 District / Zachary Lessard**
Unauthorized tree removal, timber storage, equipment/business storage, active accessways through regulated areas and land/ground disturbance within wetland/watercourse.
The latest update is that the interior of the barn is being worked on, once it is finished the wood piles will be moved inside.
- **23-ENF-IW05 – 57 Lake Road / Map 77, Lot 3 & 7 / OS-60 / Robert Taggett**
Unauthorized driveway installation.
It was noted that the Town Attorney provided an update that the owner is looking to allow the Agency as a whole to conduct a site walk of the property.
- **23-ENF-IW06 – 13 Edward Avenue / Map 77, Lot 4-26, 27 & 2 / OS-60 / Frances M. Palomba**
Unauthorized driveway installation.
See above note (23-ENF-IW05).
- **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.
Members discussed removing this item from the agenda. If a new bond release request is received, they will need to add it back onto the agenda at that time.

ADMINISTRATIVE

Regular Meeting Minutes – 11/12/24

MOTION:

To accept the Minutes of the November 12, 2024, meeting.

Moved by **NEWELL**, Seconded by **TUROCZI**

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

Aye	Gillette, Newell, Richards, Turoczi, Tyrrell
Nay	None
Abstain	None

Regulation Review:

Draft Inland Wetlands and Watercourses Regulations

Comments have been received from Atty. Janet Brooks. The Agency would like to schedule discussion with the Attorney for the first January meeting.

Draft Forest Practices Regulations

Members discussed potentially having a Special Meeting to review and focus on these regulations. Consensus was to finish the amendment process for the Inland Wetlands Regulations and then focus on the Forest Practices Regulations.

CORRESPONDENCE - None

PRIVILEGE OF THE FLOOR

Member Richards felt that a third party engineering review of the plans for the 300 Minortown Road driveway was warranted and could alleviate neighbor concerns. Members agreed with this.

Planner Agresta noted that this is being brought up after the associated agenda item had been discussed. There are issues with funding for this additional engineering review and timing concerns. Additionally, the Agency may need to request this at the meeting under the agenda item. Planner Agresta will speak to the Town Attorney about this request.

Members briefly informed the Chairman of the revised plan updates with regards to the 300 Minortown Road driveway project.

ADJOURNMENT

MOTION:

To adjourn the meeting at 9:05 p.m.

Made by **NEWELL** with no objections

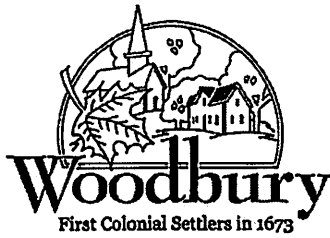
Respectfully Submitted,

Anne Firlings

Anne Firlings, Inland Wetlands & Watercourses Agency Clerk

RECEIVED & FILED
IN WOODBURY, CT

This 2nd day of Dec 2024
at 8:55 o'clock A.M
Maria M. Mancini
Town Clerk



**Town of Woodbury
Inland Wetlands and Watercourses Agency**

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Woodbury, CT 06798
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WETLANDS / WATERCOURSES PERMIT APPROVAL

401 MIDDLE ROAD TURNPIKE – 24-IW-0036

Pond Dredging

Davis Family Trust (owner/applicant)

Date of Approval	November 25, 2024
Permit Expiration*	November 25, 2026

*If regulated activities and conditions of approval are not completed accordingly

Applicant	New England Aquatic Services, LLC (agent)
Property Owner	Davis Family Trust
Application	24-IW-0036
Project	Within regulated watercourse/wetland and regulated upland review area: Pond dredging (approximately 500 CY; maximum 4 feet below waterline; shoreline slope 3:1) of a portion of pond to remove sediments using hydraulic dredging suction; dewatering and on-site dispersal of dried sediments.
Address	401 Middle Road Turnpike, Assessor Map 10, Lot 1C
Site Acreage	5.62 acres
Zone	OS-60 Zoning District

WHEREAS the Town of Woodbury Inland Wetlands and Watercourses Agency ("Agency") has received application 24-IW-0036 as submitted by the applicant/owner listed above in accordance with the Inland Wetlands and Watercourses Regulations of the Town of Woodbury ("IWWA Regulations") seeking a Wetlands/Watercourses Permit ("Permit") to implement the "project" as described above; and

WHEREAS the following mitigation measures are proposed:

- Work will be of a temporary short-term duration during a dry (non-rain) period.
- Dredging is intended to remove accumulated sediments and re-establish water depth volume in the pond.
- Turbidity curtain across outflow.
- Plastic liner and site fence surrounding dewatering area.
- Erosion and sedimentation controls will be maintained during construction; and

WHEREAS application materials received include the following:

- Application for Inland Wetlands Agency Permit
- Narrative w/photos
- Dredging Plan Sketch; and

Approved by Inland Wetlands & Watercourses Agency	
Approval Date:	11/25/24
Signature:	

NOW THEREFORE BE IT RESOLVED upon careful consideration of the information received, the Agency, in accordance with §11.3 of the Regulations, hereby finds the following:

- No significant adverse off-site impacts are anticipated.
- Site disturbance will be short term.
- Site disturbance impacts can be further mitigated by the conditions listed below and the proper use and maintenance of soil erosion and sedimentation controls as may be warranted and/or required.
- The Agency classifies the application as Summary (not involving a “significant impact” thus a public hearing is not required); and

BE IT FURTHER RESOLVED the Agency, in accordance with §10 of the Regulations following deliberations hereby approves application 24-IW-0036 as described above, subject to modifications and conditions set forth below; and

BE IT FURTHER RESOLVED the Agency hereby authorizes the publishing and filing of a Notice of Decision consistent with the requirements set forth in §11.4 of the IWWA Regulations, as well as required reporting to the Connecticut Department of Energy and Environmental Protection (“CT DEEP”) per CGS §22a-39-14; and

BE IT FURTHER RESOLVED this approval is specific to that detailed herein and the final plans endorsed as “approved” subject to the following modifications and conditions:

A. Prior to Commencement of any Work or Site Disturbance

1. **Final Plans** – The plans presented shall be endorsed as “approved” by the Agency / Town Planner.
2. **Other Required Approvals** – No work shall be authorized to commence absent securing all required approvals. Other required approvals shall be separately obtained by the applicant and copies thereof shall be provided to the Agency office for inclusion in the permit record file.
3. **Financial Guarantee (Bond)** – In accordance with §13 of the IWWA Regulations, a **Site Remediation / Soil and Erosion Control Bond** in the amount **one thousand (\$1,000.00) dollars** shall be submitted to the Land Use Office in a form and content as acceptable by the Town. The bond shall remain in full force and effect until such time as the bond is released by the Town.

B. Conditions During the Conduct of Approved Regulated Activities

1. Prior to commencement of any site work or site disturbance, the limits of disturbance shall be clearly marked in the field to the satisfaction of the Land Use Office and the Land Use Office shall be provided a minimum of 48-hours of notice. No regulated activity shall commence until erosion and sedimentation control devices have been properly installed to the satisfaction of the Land Use Office and inspected by the Land Use Office. The applicant shall maintain and supplement the controls as needed, and the Land Use Office may require additional controls as may be deemed necessary or warranted.
2. The applicant shall keep the Land Use Office duly apprised of the status and progress of site work throughout implementation of the approved regulated activities at the premises and shall be promptly notified as to any issues or potential deviations in completing the site work as designed and approved, so either appropriate minor field changes may be authorized by the Land Use Office or the need for a new or modified permit approval can be identified.

3. The following shall be followed in relation to the project:
 - The applicant and contractor shall be responsible for the timely scheduling of all inspections and providing all notifications to the Land Use Office.
 - No site, pond or watercourse disturbances beyond that shown on the final approved plans are authorized under this approval.
 - No cutting or clearing of trees or vegetation is authorized. Care shall be used to minimize ground disturbances.
 - Prior to commencement all erosion and sedimentation controls and all dredging controls shall be installed and inspected by the Land Use Office.
 - Erosion and sedimentation controls and dredging controls shall be maintained, and additional controls may be required at the direction of the Land Use Office if deemed necessary.
 - All dredging and dried sediment relocation activities shall be conducted during a dry period (with no rain in the forecast).
 - Appropriate measures shall be taken during dredging activity to avoid incidental taking of in-pond species.
 - Dredged sediments shall be adequately dewatered prior to relocation on-site.
 - Disturbance shall be contained and maintained to the minimum necessary to complete the authorized work.
 - Upon completion, all disturbance areas (including the area where the dried dredged sediments are dispersed) and work access paths shall promptly be reestablished to original condition.
4. Construction vehicles/equipment not in use shall not be stored, and at no time shall such be washed out, within a wetland/watercourse or regulated upland review area. Washout material shall be contained in a washout pit or equal containment system and hardened material removed from the site for disposal at an acceptable location elsewhere.
5. Construction stockpiles and staging shall not be within a wetland/watercourse or regulated upland review area. The site shall be kept clean of all loose debris, litter, and similar materials to prevent such from entering wetlands/watercourses. Silt fencing and other site erosion and sedimentation controls shall be regularly maintained and any silt build-up along the fence line shall be promptly removed and placed as acceptable fill in areas outside of regulated area and where such will not allow the material to migrate.
6. Disturbed soils shall be stabilized in a timely fashion, particularly to avoid/minimize erosion impacts. Specifically, if grading operations at the site will be suspended for a period of thirty (30) days or more, the applicant shall seed or employ other appropriate control measures to stabilize the affected area within seven (7) days. Also, upon completion of any grading activity, the applicant shall seed/stabilize affected areas within seven (7) days.
7. Storage of any fuel/lubricants, and the refueling/lubrication of any equipment are forbidden within any portion of wetlands/watercourses or regulated upland review area. The Land Use Office and CT DEEP shall be notified immediately of any spillage, discharge or loss of oil/petroleum/chemical liquids or solids which have occurred or will likely occur because of the activity.

C. Post Implementation Compliance and Permit Closure

1. **Final Inspection Required** – The applicant shall request the Land Use Office conduct a final inspection for determination of permit completion (**final sign-off and permit closure**) of the approved regulated activities, subject to the following:
 - Verification of work completion consistent with approved final Site Plans. The Land Use Office may require submission of a certified A-2 Survey As-Built Plan if warranted in a form, content and number as may be required by the Land Use Office to determine permit compliance and satisfactory completion consistent with this approval and the endorsed final Site Plans.
 - Verification the site has been cleaned of construction related equipment, materials, and debris.
 - All disturbed areas have been stabilized and exhibit healthy vegetative cover.
 - All erosion controls have been appropriately removed and disposed of following Land Use Office confirmation that the site is stabilized.

2. **Bond Release** – Upon written request by the applicant following completion of all approved work consistent with the approved final plans and verification the site is stabilized to the satisfaction of the Land Use Office, the bond may be released by the Land Use Office. The Land Use Office may refer any request for bond release to the Agency.

3. **Approval Compliance / Changes** – Failure to maintain compliance with this permit and the approved final plans shall constitute a violation of the terms of this permit and the IWWA Regulations. Additions or changes to the approved regulated activities shall require prior review and separate approval and permit.

4. **Expiration** – This permit approval shall expire and be null and void without further written notice per the date set forth above unless all regulated activities, including site stabilization and landscaping, are completed consistent with the approved final plans. The Agency may grant one (1) or more extensions of time to complete same, not to exceed that as may be permitted. Any request for extension shall be in writing to the Agency in a timely manner prior to the expiration date for which an extension is requested and shall state the reasons and circumstances for the requested extension. In considering any such request, the Agency may require a public hearing and may adjust any held bond.

MOTION

Moved by **NEWELL**, Seconded by **TUROCZI**

Vote: 4-0-0 – **APPROVED** – Motion **PASSED**

Aye Newell, Turoczi, Richards, Gillette

Nay None

Abstain None