

INLAND WETLANDS AND WATERCOURSES COMMISSION MEETING
MONDAY, AUGUST 5, 2013 TOWN HALL 7:00 P.M.

Present: Chairman Bruce Burnett, Robert Orciari, Robert Wesneski, Don Prigitano, Paul Whiton, Alternate Member Tim Bobroske and Land Use Coordinator Polly Redmond.

Absent: Susan Ryan, Victoria Elliott and Alternate Member Marie Etter

1. **OPEN MEETING – ESTABLISH QUORUM.**

Chairman Burnett called the meeting to order at 7:00 p.m. All regular members present are seated with Alternate Member Tim Bobroske seated for Susan Ryan.

2. **APPROVE MINUTES OF PREVIOUS MEETING: 7/1/13**

R. Wesneski **motioned** to approve the minutes of the previous meeting, seconded by R. Orciari. Motion passed unanimously.

3. **DISCUSSION/POSSIBLE DECISION - FRED PESCE SHOW CAUSE HEARING – UPHOLD, MODIFY OR WITHDRAW ORDER, 529 BURLINGTON ROAD.**

Mr. Pesce is present along with his daughter-in-law, Corolla Pesce, and his engineer, Robert Green, Robert Green Associates. Mr. Green addresses the commission stating that Land Use Coordinator Redmond had written him a letter dated 7/8/13 informing him of IWWC's request to amend the site plan eliminating any reference to a proposed farm stand. He presents a revised plan titled Remediation Plan for Wetland Filling at the Northwest Corner of Assessors Lot 10, dated 8/1/2013. He points out additional removal at Contour 882 which has been brought back substantially increasing the amount of removal of material. Mr. Green refers to Sean Hayden's, Northwest Conservation District, letter dated 3/26/13 regarding amount of material to be brought back and reads to the commission paragraph two which states, "*Wetland fill material should be removed in the vicinity of Wetlands Flag #s WL10 through WL16. The fill debris in this area is very large aggregate and not suitable for vegetating with wetland buffer plantings. Once the coarse material is removed a "no mow" vegetated buffer should be planted to create a filter strip for the western portion of the driveway.*" The letter continues with Sean Hayden stating, "I understand there was conversation about how much material should be pulled back from the wetland edge. I believe that this should be determined in the field because it is unknown at this time how much "coarse material" is contained in this border."

Mr. Green states that site plans presented tonight complies with Mr. Hayden's recommendation and adds that it is noted on the site plans that the exact limits of removal shall be determined in the field by the Town of Harwinton Land Use Officer or its assigned designee, and the project engineer, at that time the amount of "coarse material" will be established. He offers that reports will be submitted to the town if no town representation is present. Paragraph three of Sean Hayden's letter refers to storm water in relation to the farm stand and Mr. Green again confirms that the farm stand reference has been removed from the site plan. Two proposed 4' wide grass filter strips are still being proposed and erosion and sedimentation control measures will be placed along the limits of removed fill along the western edge. Plantings will occur in accordance with Northwest Conservation District recommendations as well as the 2004 Stormwater Quality Manual.

T. Bobroske questions whether a formal application has been submitted with Land Use Coordinator Redmond replying there is not an application at this time. Mr. Green questions the requirement of an application for a Cease and Correct action with Chairman Burnett explaining that the application is for activities to be performed and that it is to be accompanied by a \$650.00 after-the-fact application fee.

Commissioner Paul Whiton arrives at 7:10 p.m.

T. Bobroske questions whether the type of material being removed can be specified with Mr. Green stating that according to Sean Hayden it is coarse material consisting of concrete blocks and bituminous material.

R. Orciari questions where the material will be removed to with Mr. Green answering that it will be placed on Mr. Pesce's property outside any regulated area. R. Wesneski questions whether there should be a pre-construction meeting with Mr. Green replying, yes there shall be and that it is noted on the site plan under

Item #2 Construction Sequence. R. Orciari states he would like to see Protection Wetlands markers placed along the eastern edge of the area defined as most recent fill location and adds that there was discussion that this area was to be left untouched and so noted in Sean Hayden's 3/26/13 letter.

At this time, Mr. Pesce completes a Wetlands application and agrees to comply with all notes for E&S Control and Construction Sequence.

Upon questioning it is noted that Mr. Pesce himself will be doing this work including seeding. R. Orciari refers to Note of Seed Application on the site plan that states "Seeding should be done between April 1 and June 1, or between August 15 and September 1" and he asks that Mr. Pesce take note of what type of seed mix is to be placed down and how to spread it. He suggests that the Cease and Correct Order be upheld until all work is done and that start of this work should begin immediately in order to get seeding done. Upon questioning by T. Bobroske on how this material will be taken away, Mr. Green explains that if a bridge on Mr. Pesce's property that could be used is not completed in time, the material will be trucked up Route 4 eastbound about 400 to 500 feet to another driveway of Mr. Pesce's and brought back onto the property to a non-regulated area. He notes that the bridge construction is not a part of this application. Further discussion regarding Mr. Pesce's understanding of the importance in time for seeding and whether Sean Hayden would be involved takes place. LUC Redmond will contact Mr. Hayden to keep him informed on the status of this matter and ask whether he would like to remain involved. Mr. Green states that he will notify LUC Redmond of the pre-construction meeting with 48 hours' notice being given.

R. Orciari **motioned** to uphold the Cease and Correct Order until all work in accordance with the Remediation Plan dated 8/1/3 is complete with condition that (1) arrows plotted on the site plan for egress and ingress from a parking area be removed, (2) that Protected Wetlands medallions be placed along the eastern edge of the filled area on 4' x 4' pressure-treated posts, (3) that material removed shall be brought to a non-regulated area on the Pesce property, (4) that information on the location of where the material was removed to be given to the Land Use office, (5) that work is to be completed by September 21, 2013 and (6) that an as-built be provided to this Commission upon completion of work. P. Whiton seconded the motion and passed unanimously.

4. COMPLAINTS/ENFORCEMENT ACTIONS.

ALYSEN ALMAND, 401 BURLINGTON ROAD AGAINST FRED PESCE, E6-04-0010, BURLINGTON ROAD.

Interim IWZEO Dave Perkins is present and explains that at the request of the First Selectman, and after reviewing the Land Use file on the complaints made, he visited the Pesce property on Wednesday, July 31, 2013 to investigate. Mr. Perkins gives his report that he did notice wetlands on the property and witnessed someone working in the pond, taking material out, and trucking it to the vicinity of the airport. After looking at the Pesce property on Google Earth, it is possible that this sort of mining operation has been going on for maybe fifty years and that this activity may be what is impacting the Almand's pond. Mr. & Mrs. Almand are present and question whether a Cease and Desist Order has been issued to Mr. Pesce for this unpermitted activity as was motioned to do at the IWWC June meeting. T. Bobroske states that he visited the Almand property six weeks ago and did see an excavator on the Pesce property operating in the wetlands. Mr. Pesce argues that he is not doing any work in wetlands and that as a farmer he has the right to do anything he wishes to do on his property. Chairman Burnett reminds Mr. Pesce that he needs to come before the IWWC and that it is this Commission that makes the determination on permitted uses.

Mr. Pesce does invite Dave Perkins to meet him at the property so he can be shown around. Mr. Pesce also notes that he has never had any problems with his neighbors until silt appeared in the Almand pond but Mr. Pesce adds that even the Thomaston Dam contained silt previously. Chairman Burnett reminds the Commission that there was a motion made at the June meeting calling for a Cease and Desist Order to be issued to Mr. Pesce in response to the Almand complaints filed. R. Orciari also reminds the Commission that Mr. Pesce's son, Ric, was at the IWWC June meeting and had agreed to do work at the pond that included grading and adding topsoil and seeding just before the pond where most sediment is going to the west. Also, upstream from the bridge, where there is sand, rip rap was to be placed down along with grading, adding topsoil and seeding. Mr. Pesce's daughter-in-law, Corrola, informs the Commission that her husband, Ric, did in fact call the Land Use office seeking guidance in the field for laying the rip rap and was informed that the town still did not have a Zoning Enforcement Officer to offer that guidance.

R. Orciari **motioned** to have interim ZEO, Dave Perkins, issue a Cease and Correct Order to Mr. Pesce to take measures to stop siltation to the neighboring property to the west (Almand). Work to correct the situation is to be in two locations. Upstream, that will involve placement of rip rap at the stream edge at adequate height, grading, placing top soil down and seeding and the second location is downstream from the bridge that requires top soil and seeding. Silt fence should be adequately and properly installed upstream at the bend *after rip rapping is done*. There shall be no further excavation in the pond until Mr. Pesce submits an application to this Commission for such activities and an approval is received. R. Wesneski seconded the motion and it passed unanimously.

5. **ANY OTHER BUSINESS.**

LUC Redmond informs the Commission that she has signed off on two applications.

- 1) George Duncan, 23 Beechwood Drive – shed
- 2) Diana Bone, 880 South Road – barn and covered front deck

6. **EXECUTIVE SESSION. INTERVIEW FOR ZONING ENFORCEMENT OFFICER POSITION.**

R. Wesneski **motioned** to enter into Executive Session at 8:10 p.m., seconded by P. Whiton. Motion passed unanimously. R. Wesneski **motioned** to exit out of Executive Session at 9:50 p.m., seconded by D. Prigitano. Motion passed unanimously.

D. Prigitano **motioned** to nominate Dan Perkins to fill the Zoning Enforcement Officer position, seconded by R. Wesneski. The Commission asks that Mr. Perkins complete the DEEP Inland Wetland Training Program available online for basic training within thirty (30) days. Motion passed unanimously.

7. **CORRESPONDENCE.**

CT Federation of Lakes newsletter received.

Habitat newsletter received.

Notice of Violation Closure Letter from DEEP dated 7/11/13 regarding Solid Waste Notice of Violation No. WSWDS03132, issued 9/2/03 to Fred Pesce received.

8. **INVOICES.**

None.

9. **ADJOURN.**

P. Whiton **motioned** to adjourn the meeting at 9:55 p.m., seconded by D. Prigitano. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 8/9/2013 AT 11:46AM
ATTEST NANCY E. ELDRIDGE TOWN CLERK