

TOWN OF CROMWELL
INLAND WETLANDS AND WATERCOURSES AGENCY
REGULAR MEETING
7:00 P.M. WEDNESDAY, NOVEMBER 28, 2007
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET

MINUTES

1. Call to Order: Chairman Beatty called the meeting to order at 7:03p.m.
2. Roll Call:
Present: Chairman Jonathan Beatty, Wynn Muller, Madeleine Lowry, Ann Halibozek, Thomas O'Neill and Alternate G. Alden Nettleton
Absent: Julius Neto
Also Present: Board of Selectmen Liaison David Murphy
3. Seating of Alternates: A motion was made by Mr. O'Neill and seconded by Mr. Muller to seat alternate G. Alden Nettleton and was *unanimously approved. Motion passed.*
4. Approval of Agenda: A motion was made by Mr. Muller and seconded by Mr. O'Neill to approve the agenda with the addition of item 7c. Letter from Attorney Salvatore Petrella and was *unanimously approved. Motion passed.*
5. Approval of Minutes:
 - a. April 25, 2007: A motion was made by Ms. Halibozek and seconded by Mr. O'Neill to approve the minutes of April 25, 2007 and was *approved. Motion passed.* Mr. Nettleton abstained.
 - b. September 26, 2007: A motion was made by Mr. Muller and seconded by Mr. O'Neill to approve the minutes of September 26, 2007 with the following changes: at the start of item 6 Chairman Beatty ascended to chair and item 11c. should read "...Ms. Halibozek did some research on the deed and discovered that the easement expired based on stipulations of the 1983 deed." and was *approved. Motion passed.* Mr. Nettleton abstained.
 - c. September 29, 2007 (10:00 am): A motion was made by Ms. Halibozek and

seconded by Mr. O'Neill to approve the minutes of September 29, 2007 at 10:00am and was *approved*. *Motion passed*. Mr. Muller and Mr. Nettleton abstained.

d. September 29, 2007(11:00 am): A motion was made by Ms. Lowry and seconded by Mr. O'Neill to approve the minutes of September 29, 2007 at 11:00am and was *approved*. *Motion passed*. Mr. Muller, Mr. Nettleton and Ms. Halibozek abstained.

e. September 29, 2007(12:00 pm): A motion was made by Mr. O'Neill and seconded by Ms. Lowry to approve the minutes of September 29, 2007 at 12:00pm and was *approved*. *Motion passed*. Mr. Muller and Mr. Nettleton abstained.

6. Development Compliance Officer Report:

a. Status of On-going Projects: Mr. Curtin reported that at 97 Nooks Hill Road the homeowner has recently clear cut trees to the brook and that the conservation easement has been disturbed. Mr. Curtin asked the homeowner to re-seed and hay the area for the winter. Mr. Curtin also noticed that the pins and stakes demarcating the conservation easement have been removed. The homeowners also want to tear down a building in the area and Mr. Curtin asked them to leave the pilings in place. Ms. Halibozek suggested having Wendy Goodfriend visit the site and suggest appropriate trees and shrubs for replanting. Chairman Beatty stated that the Conservation Commission would have jurisdiction over this issue and that they are planning to review all the sites in town with conservation easements.

On Shunpike Road, the lot closest to the pond does not have the mandated plants in place yet. At 114 Washington Road the area has been stabilized.

Chairman Beatty asked Mr. Curtin to investigate when permits are required in other towns for work done in non-new construction areas. Ms. Lowry suggested including permit information with yearly property tax bills.

Mr. Muller noticed that on North Road towards Berlin, a property next to North Brook, that the land owner did work and he wasn't aware of a permit issued. Ms. Halibozek believes the work was done years ago.

Ms. Halibozek requested that item 07-01 be removed from the report.

b. Status of Existing and Possible Cease and Desist Orders:

1. 64 Evergreen Road: No action.

2. Lot #2 Harper's Meadow Subdivision: Mr. Curtin stated that he listened to tapes of meetings concerning this subdivision and that the initial discussion led to the trees remaining but that during a later meeting permission was granted to cut trees within the upland

review area. There was no distance or number of trees given as guidelines except that they should not be cut within the easement area.

3. Activity within upland review without approval at 38 River Road. K3 Holdings LLC, occupant; Allan Aylward, owner: The homeowner would like to rebuild the existing deck. A new sono-tube and new sidewalk have been installed. Mr. Aylward stated that the issue is a result of mis-communication between himself and his builder. The builder was to apply for the permit but didn't. Mr. Aylward has now submitted an application for a building permit. Chairman Beatty stated that the owner would also need to file a wetlands permit application.

A motion was made by Mr. Muller and seconded by Ms. Lowry to uphold the cease and desist order until a valid application has been submitted to the town but removal of the current debris to an off-site location will be allowed and was *unanimously approved. Motion passed.*

4. Filling within upland review without approval at rear of 540 Main Street and Shadow L. Shadow Farm LLC (Sal Branciforte), owner: Mr. Curtin has asked for the area to be re-flagged and re-surveyed. The owner was not present at the meeting.

A motion was made by Ms. Halibozek and seconded by Mr. O'Neill to uphold the cease and desist and refer the issue to the town counsel and was *unanimously approved. Motion passed.*

7. Town Planner Report:

Mr. Minor was not in attendance at the meeting. Chairman Beatty commented that at a recent meeting he learned that it is not good legal practice to vote on applications the same night they are received. Mr. Muller stated that the current regulations give a fifteen day window from the date an application is approved for the public to appeal decisions. Chairman Beatty stated that the commission could be said to have prejudice towards an application that they have already approved and would have a much better legal position if they wait.

a. FEMA Flood Insurance Rate Map (FIRM) changes: Information on this topic was in an email from Mr. Minor prior to the meeting.

b. Approval of 2008 Meeting Calendar: A motion was made by Mr. O'Neill and seconded by Ms. Halibozek to approve the 2008 meeting calendar as planned and was *unanimously approved. Motion passed.*

c. Letter from Attorney Salvatore Petrella: Atty. Petrella is requesting a site walk before an application is officially submitted because the ground is visible at this time.

A motion was made by Ms. Halibozek and seconded by Mr. Muller to have a site walk on Saturday, December 15, 2007 at 10:00am and to meet at the end of North Road on the left side

and was *unanimously approved. Motion passed.*

8. Public Comments: Atty Petrella suggests using the wording for the Cider Hill conservation easement for future easements in other areas of town.

9. Public Hearing and Possible Action: None.

10. Old Business: none

11. New Business:

a. Application #07-28: Installation of Culvert and Related Filling at 64 Evergreen Road. Joseph and Bernice Ruske, owners; Riley and Matt Ruske, applicants: Riley Ruske, representing his parents, stated that the application is for the removal of the culvert not the installation. Mr. Muller suggested the commission determine significance. Significance was determined in the first point.

A motion was made by Mr. Muller and seconded by Mr. O'Neill to find this a significant impact activity and to schedule a public hearing on December 19 and was *unanimously approved. Motion passed.*

b. Application #07-29: Construction of New House and Yard in the Upland Review Area at 20 Applewood Road. Bryan Sarnowski, owner/applicant: Mr. Sarnowski explained the project and stated that the house would measure 58'x61' which is larger than what was originally approved for the subdivision. Mr. Muller suggested the commission determine significance and none was determined.

A motion was made by Mr. Muller and seconded by Ms. Halibozek to find this a non-significant impact activity and schedule the application for action at the December 19 meeting and was *unanimously approved. Motion passed.*

Mr. Muller requested that Mr. Minor bring the documents for the original approval for the subdivision.

c. Application #07-30: Subdivision and Commercial Development (Stormwater Management) in the Upland Review Area at 269 Main Street. Corporate Row Associates LLC, owner; Gary Dayharsh, applicant: Atty. Petrella stated that the project is for subdivision of the current lot and the new building would be on the second lot near wetlands. Jim Cassidy of Hallisey, Pearson and Cassidy stated that the current site is 56,700sq ft of downtown business zoned and the new lot B with the existing Delta Building business would be 23,900sq ft and the new lot A would be 32,000sq ft. A 4,000sq ft single story building would be constructed on lot A. A catch basin would be installed and there would be some loss of flood storage capacity due

to the building and parking lot. They plan to re-grade the area the southwest of the building and lower it by about 1 to 1 feet. Due the building's location in the Cromwell Brook flood plain, it would have to be flood proofed. Selectman Murphy expressed his concern for the flooding in the area. Ms. Halibozek asked where landscaping supplies would be kept. Atty. Petrella explained that chemicals and fertilizers will be housed on shelving above the flood plain and on pallet storage that would be easy to move to higher ground. There will be four bays for landscape vehicles, trailers, equipment and supplies and the parking lot would be for employees. Mr. Nettleton asked about the location of the bays and Mr. Dayharsh explained that the bays would run from front to back in the building and the paving in front of the building would allow access to the driveway. Mr. Muller suggested the commission determine significance and none was determined.

A motion was made by Mr. Muller and seconded by Mr. O'Neill to find this a non-significant impact activity and to schedule the application for the December 19 meeting and was *unanimously approved. Motion passed.*

d. Application #07-31: Subdivision and New House and Yard in the Upland review Area on Chelsea Drive. John Schukoske, owner/applicant: Ms. Lowry recused herself because the applicant is a neighbor. Atty. Petrella explained that the new house would front on Chelsea Drive and the driveway would exit to Franklin Road. The existing barn would be removed. Mr. Muller suggested the commission determine significance and none was determined. A motion was made by Mr. O'Neill and seconded by Mr. Muller to find this a non-significant impact activity and was *unanimously approved. Motion passed.* Ms. Lowry abstained.

12. Communications: Ms. Lowry returned.

a. *Municipal Inland Wetland Commissioners Training Program 2003 Summary Report*

b. *Municipal Inland Wetland Commissioners Training Program Segment III*

13. Commissioners Comments and Reports: Chairman Beatty would like to add Mr. Minor's suggestion to the agenda to discuss allowing the commission's agent to approve activity in upland review areas using the DEP guidelines as other towns in the area use this to lighten their case load.

Mr. O'Neill informed the commission that this was his last meeting because he was elected to the Planning and Zoning Commission. He stated that he learned a lot on this board and gained a foundation to build upon.

Ms. Halibozek requested that Mr. Minor bring the new flood map to the next meeting.

Inland Wetlands and Watercourses Agency
Thursday, November 28, 2007

14. Adjourn: A motion was made by Mr. O'Neill and seconded by Mr. Nettleton to adjourn at 9:05pm and was *unanimously approved. Motion passed.*

Respectfully submitted,

Catherine Potter