

**TOWN OF CROMWELL
INLAND WETLANDS AND WATERCOURSES AGENCY**

**PUBLIC HEARING AND REGULAR MEETING
7:00P.M. WEDNESDAY, MAY 7, 2008
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET**

MINUTES

PRESENT: Chairman Jonathan Beatty, Wynn Muller, Julius Neto, Madeleine Lowry, Ann Halibozek, William Yeske (arr. 7:04p.m.), Alternate G. Alden Nettleton and Alternate Joseph Corlis

ALSO PRESENT: Town Planner Craig Minor, DCO. Fred Curtin and Selectman Dave Murphy (left at p.m.)

1. Call to Order: Chairman Beatty called the meeting to order at 7:03p.m.

2. Roll Call: Chairman Beatty introduced the above mentioned members and town staff.

3. Seating of Alternates: A **motion** was made by Ms. Halibozek and **seconded** by Ms. Lowry to seat G. Alden Nettleton and was *unanimously approved. Motion passed.*

A **motion** was made by Ms. Halibozek and **seconded** by Ms. Lowry to unseat Mr. Nettleton due to full board attendance and was *unanimously approved. Motion passed.*

4. Approval of Agenda: A **motion** was made by Mr. Nettleton and **seconded** by Ms. Halibozek to approve the agenda with the combination of items 6.b.1. and 6.b.2. and was *unanimously approved. Motion passed.*

5. Approval of Minutes:

a. April 2, 2008: A **motion** was made by Mr. Muller and **seconded** by Mr. Neto to approve the minutes of April 2, 2008 and was *unanimously approved. Motion passed.*

b. April 27, 2008: Tabled.

6. Development Compliance Officer Report:

a. Status of On-going projects: Mr. Curtin reported that the Christian Hill bridge has been stabilized but still needs to have hay applied. Mr. Curtin also reported that Lowes has not filed a formal notice on the start of the project.

Ms. Halibozek asked about the trees cut in the Harpers Meadow conservation area. Mr. Curtin stated that on Lot #1, no trees have been cut in the conservation area.

Ms. Halibozek asked if any storm drains will be installed on North Road to divert water from Christian Hill. Mr. Curtin will check on this.

Chairman Beatty asked if there are photos available on the Nooks Hill Road issue. Mr. Curtin will discuss under item 6.b.3.

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

1. Jason LeVesque; Infinity Builders: cutting trees in the Conservation Easement area at 86 Court Street and

2. Casey McCormick, owner of 86 Court Street: Mr. Curtin initially noticed tree cutting on April 8, 2008 and returned on April 9, 2008 and discovered that trees were cut within the conservation area and upland review area. Atty Sal Petrella, representing Mr. McCormick stated that violation was not intentional. Mr. McCormick hired a tree cutter, the conservation easement marker was in place. The tree cutter was told to cut in front of the marker but instead cut behind the marker. Atty Petrella then read into the record a letter from Ed Pawlak of CT Ecosystems, Inc stating the tree stumps haven't been removed but trees measuring between six and seventeen inches in diameter have been cut down. A total of about fifty trees were cut down. Mr. Pawlak recommends that no stumping of the trees occurs and that seventy-six trees and two hundred twenty-five shrubs be planted in the area. Mr. Pawlak's recommendations also stipulated that the trees be planted as soon as possible, by hand- using no power equipment and that the brush is left on-site as a wildlife habitat. Ms. Lowry asked if the brush is newly cut or if it was existing and Atty Petrella replied that the brush has been recently cut and stacked. Mr. Muller asked for suggestions on how this could be avoided in the future and Atty Petrella stated that the conservation markers could be easily misinterpreted and suggests installing markers every ten feet before permanent markers are installed. Atty Petrella also suggests using additional language on-site with contact information for the wetlands officer before work is begun. Mr. Muller also suggested posting a copy of the permit on-site in a plastic holder for easy reference. Ms. Halibozek asked about the width of the trees to be planted and Atty Petrella stated that the plans have those details. Ms. Lowry asked if the brush is a fire hazard and Atty Petrella stated that some of the brush will be removed, but small strategic piles will be left and shouldn't be a fire hazard.

A **motion** was made by Mr. Neto and **seconded** by Mr. Yeske to modify the Cease and Desist orders for items 6.b.1. and 6.b.2. at 86 Court Street so that they may come into full compliance of the recommendations made by Ed Pawlak of CT EcoSystems Inc in the letter dated May 7, 2008 and must be completed within forty-five days with Mr. Curtin's approval and was *unanimously approved. Motion passed.*

3. JoAnn Heskett: failure to maintain the natural buffer to the side and rear yard, as per IWA permit #98-10: Mr. Curtin stated that according to the original building permit, the wetlands were to remain in their natural state. In the fall of 2007, Mr. Curtin noticed there had been some clearing and sent the owners a letter. This spring, Mr. Curtin noticed that an area has been raked, seeded and hayed and since issued a cease and desist order. JoAnn Heskett, 97 Nooks Hill Road, explained that she wanted to improve the property and make it safe for her child. She feels the town should maintain the wetland and that there is a problem with the drainage making it difficult to mow the grass. Ms. Heskett stated that they cut down a tree and cleared some brush. Ms. Heskett is not sure what to do in order to comply with the order but would also like to install a fence and a shed. Mr. Curtin explained that installation of a fence is not part of the order and would have to be dealt with under a separate permit application. Mr. Curtin clarified that work was done in actual wetlands. Chairman Beatty needs to get an idea

where the wetlands are. Ms. Halibozek asked if the original letter sent in fall of 2007 had been received by the homeowner and Ms. Heskett was not sure if it had. Chairman Beatty stated that the commission needs to find out where the wetlands are and explore ways to mitigate. Chairman Beatty directed Ms. Heskett to speak with CRCCD and return next month with a plan. Chairman Beatty asked if members would like to conduct a site walk. Commission members elected to conduct a site walk on Tuesday, May 20, 2008 at 5:30p.m. Chairman Beatty requested copies of the plot plan before the site walk.

A **motion** was made by Ms. Halibozek and **seconded** by Ms. Lowry to uphold the cease and desist order and that a site walk will be conducted on Tuesday, May 20, 2008 at 5:30p.m., the property owner will report back to the commission on a mitigation plan developed by CRCCD and that the wetland boundary be replaced as per the special condition #2 on the original permit and was *unanimously approved. Motion passed.*

4. S and S Partnership, 201 Main Street: filling in wetland/upland review.

Cromwell Meadows: Mr. Curtin observed filling in the area south of the cell tower. The upland review area should be listed as 200 feet not 100 feet and some material has been pushed into the Cromwell Meadows. The State DEP has been notified of the cease and desist. Atty Richard Carella, representing owner Arthur Sibley, President of S&S Partnership has a tenant that is causing the issue and has been told the he needs to mediate. Atty Carella stated that Mr. Sibley would like to resolve the issue but has not had opportunity to develop a site plan. Atty Carella also stated that the State DEP may have jurisdiction over this matter, as per the IWWA regulations. Chairman Beatty directed Mr. Curtin to coordinate with the State DEP and to contact CRCCD. Mr. Curtin stated he will contact the State DEP for instructions and modify the cease and desist to list Atty Carella as the lead contact. Mr. Neto asked what controls the owner has over the tenant to prevent any future violations. Atty Carella replied that the tenant has been notified that this type of behavior is unacceptable. Mr. Neto asked if enough documentation has been made for future enforcement of this area and Mr. Curtin confirmed that adequate documentation has been made. Atty Carella also suggested that installation of a barrier behind the cell tower would prevent access.

A **motion** was made by Mr. Muller and **seconded** by Ms. Lowry to uphold the cease and desist order and that the upland review area should be listed as 200' not 100' under item #2 and was *unanimously approved. Motion passed.*

5. Unauthorized fill in the Upland Review Area on Shadow Lane behind 540 Main Street. Shadow Farm LLC (Sal Branciforte), owner: A **motion** was made by Mr. Yeske and **seconded** by Mr. Neto to uphold the cease and desist order and was *unanimously approved. Motion passed.*

7. Town Planner Report: Mr. Minor reported that the Conservation Commission is working on a manual to manage the towns' conservation easement areas and he will report back on their progress. Mr. Neto asked if the manual could be used for educational purposes and Chairman Beatty requested that homeowners be notified once all the conservation easement areas have

been identified. Mr. Minor stated that homeowner notification will be one of the steps in the manual. Chairman Beatty would like the same homeowner notification for wetland areas. Mr. Neto requested acknowledgment by the homeowners. Mr. Corlis, a Conservation Commission member, agrees that education is important.

8. Public Comments: None.

9. Public Hearing and Possible Action:

a. Application #08-06: Residential Subdivision at 48 Pasco Hill Road. J. Dorio Builders and Realty Inc., applicant; Estate of Robert Rioux, owner: Atty Nicholas DeNigris representing the estate stated that the public has been notified and asked that the application be continued to allow time to make changes to the plans. Originally there were to be seven lots, but will be reduced to six, which will require changes to the represented lot sizes, contours and the roads. Jack Gilmartin, consulting engineer, explained that lot #5 would be removed eliminating any wetland disturbance in that area. Ms. Goodfriend has not visited the site yet. Mr. Gilmartin stated that drainage plans and grading may change with the elimination of lot #5. Mr. Gilmartin also stated that no alternative plans existed and that these changes are the first considered. Chairman Beatty explained that the commission may ask for some type of conservation easement near the brook. Mr. Yeske asked if the site on the southwest corner of the site has fill on it. Mr. Gilmartin stated that the area will be dug down to 'virgin' soil and he will be contacting Ms. Goodfriend to coordinate. Ms. Halibozek asked if anyone looked into the intermittent watercourse and if it flows under the driveway. Mr. Gilmartin confirmed that it is an intermittent watercourse. Jen Benno, soil scientist, conducted her inspection on April 30, 2008 and will provide a finalized report next month. Ms. Benno reported that the intermittent watercourse appears man-made, of low quality and simply for water conveyance. Ms. Benno reported that the wetlands are associated with Paso Brook and that the shallow marsh on the western property boundary contains a variety of vegetation. There are also two meadow areas extending easterly that also contain a variety of vegetation. Ms. Benno stated that the Natural Diversity Database Map has no listing for this area and no site within one-half mile.

Chairman Beatty asked for public comment on this application.

John Adamowicz, 70 Pasco Hill Road, lives adjacent to the site and upstream of Pasco Brook. Mr. Adamowicz is concerned about the development and the level of the water in the area, in the past Pasco Hill Road has been closed because of water. Mr. Adamowicz also reported that wood chips have been deposited onsite.

Phil Dennehy, 53 Pasco Hill Road, is concerned about the development and possible additional flooding. Mr. Dennehy is concerned about filling the site and the removal of existing fill and would like the soil tested. Mr. Dennehy is concerned about any blasting that may have to be done because his house has a stone cellar dating to 1880. Mr. Dennehy is against the development.

Paul Munson, 62 Pasco Hill Road, never received notification of any meeting on this site and reported that the road was closed in March because of flooding. Mr. Munson believes that the culvert under the road is too small and is collapsing. Atty DeNigris stated that the list of residents to be notified was given to him by Mr. Minor and Mr. Minor confirmed that Atty DeNigris met the requirements. Mr. Munson also asked if flood insurance will be required for the homeowners and that building more houses will create more problems.

Mr. Corlis is concerned about flooding and fill and suggests they contact Ms. Goodfriend. Ms. Lowry asked if sewers are in the area and Mr. Minor stated that they are proposing to install them. Mr. Yeske stated that the site has a lot of fill containing tar and oil, the houses near the wetlands are an issue but that the houses on the hill are okay. Ms. Halibozek asked about items stored in the barns-possibly pesticides? Ms. Halibozek also requested that the new plans clearly identify any compensation for flooding of homes because they are located within the 100 year flood zone. Ms. Halibozek also asked for the exact square footage of the footprint of planned homes for each lot. Mr. Muller requested plans for enhancing the wetlands and within the conservation easement areas. Chairman Beatty is concerned about the removal of the buildings and materials and the prevention of contaminating the wetlands. Chairman Beatty stated that there is a need to make sure the brook remains undisturbed by the property owners. Mr. Neto requested that the next presentation be easily understandable for all interested parties. Ms. Lowry asked about storm sewers and Mr. Minor stated that they are part of the town's plan. Mr. Nettleton is concerned about the basements and the run-off from the driveways and roofs. Mr. Gilmartin replied to the comments from the public and commission members:

- there is no planned blasting for the project,
- woodchips and debris will be removed
- a Phase I environmental study will be conducted
- no more fill can be placed on the site than is already there (zero increase)
- houses sizes will be represented with maximum house size and if they will be required by the builder
- the town engineer stated that houses located in the flood plain must have their foundation at a particular height above flood level and that homeowners may not be required to have flood insurance
- currently the town's temporary fix of the culverts is not working
- the installed sewer will be a forced 2" main

Mr. Adamowicz asked if the piles of fill were included in the topographic of the plans and Mr. Gilmartin stated that the topographic survey was done on-site and the piles were not included because they would produce a false reading of the grades.

A **motion** was made by Ms. Halibozek and **seconded** by Mr. Muller to continue the public hearing to the next regularly scheduled meeting and was *unanimously approved. Motion passed.*

10. Old Business: None.

11. New Business:

a. Application #08-09: Replace deck on rear of house at 67 Coles Road in upland review area. Thomas Manente Jr, owner/applicant: Atty Sal Petrella, asked the commission to find no jurisdiction or for staff approval of this application if possible. Chairman Beatty replied that neither option was appropriate because development is planned for within thirty feet of a wetland area. Atty Petrella stated that the deck is half constructed and that the concrete is already poured. The building inspector has visited before and only recently discovered that a wetlands application needed to be filed. Atty Petrella explained that during the building of the Summer Wind subdivision, a drainage pipe was installed, on this site underground, to connect two wetland areas off-site and due to the installation of the pipe the wetland soils are no longer there. Chairman Beatty, Mr. Muller and Mr. Neto all agreed that due to the installation of the pipe no permit is required. A **motion** was made by Mr. Neto and **seconded** by Mr. Yeske that no permit is required and was *unanimously approved. Motion passed.*

12. Communications:

a. "Biodiversity Conservation" Report: Tabled.

13. Commissioners' Comments and Reports: Mr. Neto requested that communication come via US Postal service, not email.

Ms. Halibozek asked if the Cease and Desist orders carried fines. Mr. Curtin stated that they were warnings. Ms. Halibozek stated that ATV's have accessed the future site of Lowe's, the police were notified but no fines were issued. Chairman Beatty will make sure the police department knows about the wetlands fines and that they should be enforced. Mr. Curtin will notify the Police Chief. Mr. Neto asked if collected fines could be used for education, etc... Mr. Minor stated that it could be shown as income for the town.

Mr. Muller reported that he and Mr. Neto were sited for a Freedom of Information issue and encouraged members to be cautious of emails. Mr. Minor stated that any email could be sent carbon copy to him and distributed under FOI at the town's expense.

14. Adjourn: A **motion** was made by Ms. Halibozek and **seconded** by Ms. Lowry to adjourn at 9:47p.m. and was *unanimously approved. Motion passed.*

Respectfully submitted,

**Catherine Potter
Commission Clerk**