

**Town of Montville Inlands Wetlands Commission
Regular Meeting Minutes
Thursday, July 21, 2011 – Town Council Chambers – Town Hall**

1. Call to Order

Chairman Brush called the regular meeting of the Town of Montville Inlands Wetlands Commission to order at 7:00 p.m. after establishing a quorum.

2. Roll Call

Present were Commissioners Bartholomew, Beauchene, Brush, Riske and Taylor. Absent was Commissioner O'Bday. Also present was Ms. Colleen Bezanson, Inland Wetland Agent/Planner II.

3. Approval of the Meeting Minutes

a. Motion made by Commissioner Taylor, seconded by Commissioner Bartholomew to approve the meeting minutes of June 16, 2011 as submitted. Discussion, none, voice vote, 5-0, all in favor, motion carried.

b. Motion made by Commissioner Riske, seconded by Commissioner Bartholomew to approve the meeting minutes of June 22, 2011 as submitted. Discussion, none, voice vote 4-0-1 (Commissioner Taylor abstained as she was not at the meeting). Motion carried.

4. Executive Session – none.

5. Public Hearings – none.

6. Show Cause Hearings

Motion made by Commissioner Taylor, seconded by Commissioner Riske to move agenda item 6 (c) to the top of the agenda. Discussion, none, voice vote, 5-0, all in favor, motion carried.

c. DW Transport, work within a regulated area without a permit on the property located at 38 Pequot Road, Montville, Connecticut as shown on Assessor's Map 72, Lot 35.

Ms. Bezanson stated DW Transport has constructed a scale within the upland review area without obtaining a permit to do so. Staff was made aware of the scale by the Zoning Officer and a discussion was held with the property owner and he indicated the company he bought the scale from told him it is a temporary unit and it did not require permits to construct. Ms. Bezanson stated that because it is within the fifty foot review area and requires a permit. She stated the scale has already been installed and a Cease and Desist Order has been issued to ensure no further work is done in this area. The scale is on top of existing parking and storage area and no erosion and sediment controls were used but the existing berm embankment was not disturbed by the activity. She inquired if the Commission would like to schedule a site walk to look at activity.

Mr. Len Rochester, representing DW Transport was present to address the Commission. He explained there is asphalt under the concrete ramp and the scale is not attached in any way to the asphalt and can be moved to another location at any time. The unit is designed to be portable. A permit was issued to dig the trench for the electrical trench and the existing berm has been there since the original plan and it has not been disturbed at all.

Motion made by Commissioner Taylor, seconded by Commissioner Riske to set a site walk for Thursday, July 28, 2011 at 6:30 p.m. Discussion, none, voice vote, 5-0, all in favor, motion carried.

Motion made by Commissioner Bartholomew, seconded by Commissioner Taylor to move agenda items 6 (a) and (b) after agenda item 8 (a). Discussion, none, voice vote, 5-0, all in favor, motion carried.

7. Remarks from the public regarding items on the agenda

Mr. Ray Chester, 35 Meetings Road, Oakdale inquired if there was any information the Commission could give him regarding 1399 Old Colchester Road. He asked if the homeowners are required to abide by the rules or if they do not have to because they are in litigation. Chairman Brush stated the case is in litigation and at the advice of the Commission attorney he can not comment on the subject outside of executive session.

Chairman Brush asked three times if there was anyone from the public who would like to come forward to address the Commission.

8. Old Business

a. Robert Sachs, an application for a thirty two lot subdivision on the property located at 316 Chapel Hill Road, Montville, Connecticut as shown on Assessor's Map 35, lot #1.

Mr. John Wittcoln, BL Companies, stated he received comments from the Town Engineer and Planning and Zoning prior to last months meeting, he responded to the comments but is working on an issue with the Town Sanitarian. The plans will not change but he does not want to continue with the hearing at this time in the case there are changes after the additional test pits are taken on nine of the lots on Monday. He requested an extension for the application. Ms. Bezanson stated the applicant has an additional thirty days and can continue at the next meeting. If there is an issue the applicant can re-file after next month. Chairman Brush stated a vote is not required, and this application will be continued until next month.

6. Show Cause Hearings

a. Susan Green, work within a regulated area without a permit on the property located at 63 Lake Drive, Montville, Connecticut as shown on Assessor's Map 108, lot 92.

Ms. Bezanson stated a Cease and Desist Order has been issued for the replacement of a retaining wall, addition of patio and retaining wall without a permit. Staff was made aware of the activity by a boater that sediment was falling into the lake from excavation being done on the property. During the site visit discussion was held with the property owner and she indicted the work being done was to fix the broken wall and to add some new walls and add a patio for her daughter's wedding reception to be held at the home. The proposed work requires a permit because it is within the fifty foot review area. A site walk was held and Commissioners Taylor, Riske and Bartholomew looked at the site together, Commissioner O'Bday went to the site on a separate occasion. The majority of the earth product has been kept on site with the exception of a portion between the abutting property that was also doing work without a permit. Not allowing the work to continue creates a safety issue for the owner as well as pollution into the lake. The work area is within the review zone and there is no proposed activity within the water or in the area directly adjacent to the water except for some plantings.

Motion made by Commissioner Taylor, seconded by Commissioner Beauchene to continue the Cease and Desist Order until the August, 2011 regularly scheduled meeting. Discussion, Ms. Bezanson stated she will go out to take pictures of the site to verify that all the work has been completed by next months meeting, if everything is completed the Order will be lifted at the next meeting. Voice vote, 5-0, all in favor, motion carried.

Motion made by Commissioner Beauchene, seconded by Commissioner Bartholomew to move agenda item 6 (b) to the top of the agenda for discussion. Discussion, none, voice vote, 5-0, all in favor, motion carried.

6. Show Cause Hearing

b. Shawn and Katie Passero, work within a regulated area without a permit on the property located at 67 Lake Drive, Montville, Connecticut as shown on Assessor's Map 108, lot 91.

Ms. Bezanson stated the homeowner has excavated a portion of the yard within the review area and a Cease and Desist letter was sent out but was not picked up and no contact has been made between staff and the homeowner. She requested the Cease and Desist order remain in place until an application is filed with the Commission. It was the consensus of the Commission to keep the Cease and Desist Order in place and to send notification to the homeowner again in an attempt to make contact to resolve this issue.

Motion made by Commissioner Taylor, seconded by Commissioner Riske to continue this application until the August meeting. Discussion, none, voice vote, 5-0, all in favor, motion carried.

Motion made by Commissioner Taylor, seconded by Commissioner Beauchene to take a five minute recess to allow the attorney for agenda item 8 (b) time to get to the meeting. Discussion, none, voice vote, 5-0, all in favor, motion carried and the Commission began its ten minute recess at 7:42 p.m. returning at 8:00 p.m. and Chairman Brush resumed the meeting.

Motion made by Commissioner Beauchene, seconded by Commissioner Bartholomew to move agenda items 11 and 12 to the top of the agenda for discussion. Discussion, none, voice vote, 5-0, all in favor, motion carried.

11. Correspondence

Ms. Bezanson distributed copies of the Habitat, Summer 2011 issue to the Commission members. She inquired if the Commission would like to renew their CACIWC, Inc. membership in the amount of fifty dollars. Motion made by Commissioner Taylor, seconded by Commissioner Riske to renew the Commission's subscription to CACIWC, Inc. Discussion, none, voice vote, 5-0, all in favor, motion carried.

Chairman Brush stated the George vs. Montville Inland Wetlands hearing was held and the Judge has one hundred and twenty days to rule.

Ms. Bezanson discussed a correspondence from a property owner who is requesting the creation of a ten by fifteen foot in ground water filled area for her dog to play in and she is asking if a permit will be required to do so. There are no wetlands on the property in question. Chairman Brush stated the regulations stated that creation of a wetland requires a permit. A pond will require a filtration system and the Commission members stated they would like the opportunity to review a plan for a pond.

12. Other Business

a. Revisions to the Inland Wetlands Regulations

Motion made by Commissioner Taylor, seconded by Commissioner Riske to schedule a Public Hearing for discussions regarding the revisions to the inland Wetlands Regulations on September 29, 2011 at 7:00 p.m. Discussion, none, voice vote, 5-0, all in favor, motion carried.

Motion made by Commissioner Brush, seconded by Commissioner Riske to form a sub-committee consisting of Commissioners Beauchene, Taylor and Brush to discuss the fees associated with the Inlands Wetland Commission with Ms. Bezanson. Discussion, none, voice vote, 5-0, all in favor, motion carried.

8. Old Business

b. Leonard & Kathleen Johnson, an application for the construction of a twenty four by thirty six foot garage within the review area on the property located at 87G Cottage Road, Montville, Connecticut as shown on Assessor's Map 63, lot #3.

Mr. Johnson, 87G Cottage Road, spoke in favor of the application and discussed the following;

- He and his wife's credentials in environmental areas
- Indicated that the new area would be easier to get to then the garage that was approved
- Intervener request not true because there is no source of pollution
- Wetland area currently becomes stagnant and fills with mosquitos
- Indicated that Snarski report said the area was not a vernal pool rather it was a man made low function wetland

Mr. Tim May, May Engineering spoke in favor of the application and stated the following;

- He is the Applicant's engineer
- He addressed comments of the Town engineer in his letter- Submitted as applicant exhibit 1
- Between 2007-2008 had done background work for the permit
- Indicated that the area impounds water but the garage would not add any additional water
- Indicated that is the French drain was maintained then area would drain better

Mr. Scott Gravatt from the Eastern Ct Conservation District stated the following;

- His credentials
- Familiar with dynamics of the site and indicated that it was a low value wetland
- Stormwater was currently being restricted by the increase in the driveway level which creates a dam
- Maintenance of the French drain is needed
- Drain is outside of 50 ft review area

Attorney Janet Brooks, 1224 Mill Street, Building B, Suite 212, representing the Johnson's discussed the following with the Commission;

- Johnson's are willing to maintain the French Drain but since out of regulated area not part of application

Atty. Harry Heller

- Represents intervener Thomas Sanders
- Petition alleges environmental harm likely to result

- Agrees wetland is a low quality wetland however has significant stormwater function
- Application does not and cannot satisfy permitting criteria CGS 22a-41 or Town Inland Wetland regulations
- Construction will
 - Create additional impervious surface
 - Diminish storage capacity of the area
- Presented pictures of area from 2005 that were submitted by Johnsons during another application before the Commission- Entered into Record Intervener 1
- In response to Mr. May's report
 - Mr. May stated would displace storage capacity
- Cited and entered into the record Red Feather, LLC vs. Inland Wetland and Watercourses Commission of The Town of Preston- Entered into Record Intervener 2
 - Refers to adjacent property impacts
- It is indisputable that the construction will convert vegetated area to impervious area
 - This will decrease storage capacity
 - Increase volume and duration of flow
- Alternatives need to be considered
 - Redesign so proper drainage is installed
 - Permit has already been granted for location in another area

Atty. Janet Brooks;

- Discussed River Bend case in which Commission not able to deny permit unless actually have adverse impact
- Intervener has presented no testimony that there will be an adverse impact
- Feison case indicates that expert testimony is needed
- Atty. Heller has no expert witnesses therefore no expert evidence has been presented
- Piggybacking on allegations from former Johnson application intervener

Tim May- May Engineering discussed the following;

- Infiltration is very low in the area
- Maintenance of French drain will improve water quality

The conversation between Atty. Harry Heller and Tim May as follows;

Asked Mr. May if he had done pre or post drainage calculations for the site
Mr. May indicated that he did not have calculations to be presented at this time.

Scott Gravatt- Eastern Ct Conservation District

- Filtration benefits from the French Drain
- Amount of retention negligible
- Will not change stormwater holding capacity

Mr. Johnson stated the following;

- Has pictures at home from 1999 from In-laws showing area where drainage pipe was removed
- Flooding was originally caused by filling in spot in front of Sanders House
- Water originates from hills on property then flows across
- Sanders does not own property across Rd. St. Thomas Moore does
- No place to put detention area
- Beach erosion still occurring

Staff indicated that the office had just received Mr. May's comments and that the Town Engineer had not had time to review them. In addition she had concerns over the possible springs in the area that Mr. Johnson had mentioned.

It was the consensus of the Commission to continue this application to allow the Town Engineer to review and comment on the letter submitted by Mr. May regarding this application.

Motion made by Commissioner Bartholomew, seconded by Commissioner Beauchene to continue this application until next month to allow the Town's Engineer to review the letter submitted by Mr. May regarding the application of Leonard and Kathleen Johnson. Discussion, none, voice vote, 5-0, all in favor, motion carried.

13. Adjournment

Motion made by Commissioner Taylor, seconded by Commissioner Riske to adjourn the meeting at 8:45 p.m. Discussion, none, voice vote, 5-0, all in favor, motion carried.

Respectfully Submitted by:

Audrey Ulmer, Recording Secretary for the Town of Montville.