

NOTE: These Minutes are subject to Agency approval at next regular meeting.

Chester Inland Wetlands & Watercourses Agency
Special Meeting, October 7, 2013
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1. Call to Order

The Chester Inland Wetlands & Watercourses Agency held a Special Meeting on Monday, October 7, 2013, at the Chester Town Hall, 203 Middlesex Avenue, Chester, Connecticut. In attendance were Al Bisacky, Kris Seifert, Sally Sanders, Christine Darnell, Eric Davison. Kim Senay arrived during discussion of Application #13-14. Anna Sweeney, Wetlands Compliance Officer, was also present. Chairman Bisacky called the meeting to order at 7:00 PM.

2. Minutes – September 9, 2013 Special Meeting and September 21, 2013 Site Walk Minutes

Motion by Sanders, second by Darnell, to approve September 9, 2013 Minutes amended as follows -

- △ **Under 4., add the following motions - "A motion to approve the plan as submitted was made by Sally Sanders and seconded by Christine Darnell. The motion was approved unanimously.**

- △ **A motion to write to the First Selectmen that it would benefit wetland quality to allow no curbing at the driveway section with the culvert (see sheet 3 of 3 on the plan of 9/5/13) and to reduce the width of the driveway. Made by Sally Sanders and seconded by Kris Siefert. Unanimously passed.**

- △ **Sally Sanders made a motion that if the Selectmen allow elimination of curbing and narrowing of the driveway, no modification of the permit would be necessary. Christine Darnell seconded motion. Motion passed unanimously.**

Voting in favor – Sanders, Darnell, Seifert, Bisacky. Opposed – none. Abstained – Davison. Motion Carried.

Motion by Seifert, second by Sanders, to approve September 21, 2013 Site Walk Minutes amended as follows -

- △ **Correct 4th sentence to read, "Mr. Bisacky told Mr. Pantalone that he should revise the plan if a change was being made."**

Voting in favor – Seifert, Sanders, Darnell, Davison, Bisacky. Opposed – none. Motion Carried.

3. Audience of Citizens – none.

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4. Application #13-14 – William & Angela Ruel (owners), Raymond Pantalone (applicant), Castle View Drive – single family home with detached garage
Chairman Bisacky noted this application was the subject of the site walk on September 21st. Mr. Pantalone noted he couldn't really add any more than what has already been said either at the last meeting or at the site walk other than he would like to put the house where it was staked out and possibly modify the garage to move it a little farther forward to save the one nice tree. Chairman Bisacky noted personally he had a concern with putting the garage in the 25 foot buffer area that was part of the application approval for the house several years ago. That buffer should be maintained as an absolute minimum. Bisacky noted it is a very constrained lot. He also noted structures in a floodplain are required to have breakaway walls. Mr. Pantalone asked if that would apply to a garage. Bisacky noted he was fairly certain it would. Sally Sanders noted in prior applications in the floodplain area required breakaway walls and storage for chemicals above the floodplain. She felt the garage would fall into that same requirement.

It is noted for the record Kim Senay arrived at this time.

Sally Sanders noted the garage in that location would be completely under water during a flood event. It absolutely needs to have breakaway walls and whatever a flooded building would need to have. There was discussion about having deposition in the review area which the Agency does not like to see.

Mr. Pantalone asked if the house could be approved. Chairman Bisacky noted it already has a permit. Ms. Sweeney noted she checked on this and the prior permit has expired.

Mr. Pantalone noted this application was for the house and garage.

Ms. Sweeney asked about stockpile locations. It was noted they are not located on the site plan. The prior permit was reviewed for conditions which included the 25 foot buffer and an alternate septic system plan. The site plan was revised through 4/27/05 and the permit was approved on 5/9/05.

Chairman Bisacky noted the house was approved back in 2005 and the site plan was modified to show the conditions of that approval. Mr. Davison noted nothing has changed on the lot or in the regulations so if the house was approved back in 2005, it should be approved again. His thoughts on the garage are that it should be moved out of the 25 foot buffer area. Mr. Pantalone noted he could move the garage but would need a variance.

Mr. Pantalone asked if the approval could be done separately for the house and the

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garage.

Motion by Sanders, second by Darnell, to approve Application #13-14 William & Angela Ruel (owners) and Raymond Pantalone (applicant) as presented. Discussion followed. Mr. Davison noted there was silt fence around the whole perimeter so any stockpiled material would be protected. Stockpiles should be shown and should be within the perimeter of the silt fence. Mr. Davison noted he didn't have a problem with the garage but it would have to be moved. Bisacky noted he would like to see the garage outside the buffer area. Mr. Davison noted the site plan needs to be revised by the engineer to show the new location of the garage. Bisacky noted once that is done and a new site plan is drawn up, it will have to come back before the Wetlands Agency for approval. Mr. Pantalone noted he is looking for approval of the house for now and will then work on the garage later. **Motion by Sanders, second by Darnell, to approve Application #13-14 on the plans presented dated 4/27/05 without the addition of the garage and the stockpile area being within the silt fence area. Voting in favor – Sanders, Darnell, Seifert, Davison, Senay, Bisacky. Opposed – none. Motion Carried.**

5. Continued Show Cause Hearing – 46 Deep Hollow LLC, 46 Deep Hollow Road – unpermitted regulated activity

Chairman Bisacky noted a remediation plan was presented last month and discussed. Subsequently comments were made by Agency members to that plan and forwarded to the property owners. Bisacky noted he sent a message to Cori Roe indicating the Agency had a meeting and discussed items that were outside of the wetland areas that would be under the jurisdiction of this Agency. Other items inside the wetland areas would be under the jurisdiction of Army Corps. This morning a revised remediation plan was received. He reviewed this revised plan and some of the suggestions from the Agency were incorporated, some were not and other changes were made to the remediation plan. Bisacky asked if there has been any correspondence from Cori Rose. Tom Metcalf replied no. It has all been funneled through the Agency. He indicated Chris Smith did contact Cori Rose to see if she had any questions, but there has been no interaction with her.

Beth Criton, present in place of Chris Smith, noted she had copies of the revised October 5, 2013 plan. Penny Sharpe was not able to be present but there was a letter from Ms. Sharpe. Chairman Bisacky asked what the purpose of Ms. Sharpe's letter was. Ms. Criton noted she has expertise in identification of shrubs and apologized the Agency has not had a chance to review her material ahead of time. Ms. Sharpe inventoried the shrubs and trees on the property to see whether they were invasives, natives, etc. One of her recommendations was that many of the trees and shrubs that had been disturbed are coming back and are preferable to another species that might be planted. Ms. Sharpe recommends the Agency not be

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so aggressive in planting new trees until it is determined if the existing ones regenerate. Chairman Bisacky noted the plan presented before acknowledged if there was vegetation growing it could count for some of the remediation.

Beth Criton noted Tom Metcalf, Rich Snarski, Andrew Drabkin and Alexis and Dana Wilcox were all present.

Chairman Bisacky asked why there were significant changes to the remediation plan. He felt this was a step back in revising this plan from what was presented last time and comments from the Commission.

Chairman Bisacky reviewed time line noting that if there isn't agreement tonight on what is to be done that will be a problem. It was noted there is no input from the Corps and they have jurisdiction over the wetland areas. Ms. Criton noted it was Attorney Smith's intention to do whatever the Corps recommends. Bisacky noted the Agency will probably have to modify its Order tonight to incorporate this remediation plan so the work can be done.

The remediation plan was reviewed in detail.

Under General, Item 7 - It was noted input from Penny Sharpe was incorporated into developing the proposed remediation work.

Under II. Proposed Remediation Measures, A.3., it had been suggested the words "and/or representative of the Chester IWWA" be inserted and that was not done. Tom Metcalf explained it would be better to just have one person follow up. Chairman Bisacky noted he suggested that particular wording in the event the Wetlands Officer might be on vacation and not available. Mr. Metcalf noted they are looking for a single voice or Ms. Sweeney. It was agreed to say "Anna Sweeney or a representative."

Under Area A, Item 1 - it was agreed to add back in "no ground disturbing work shall be undertaken until a pre-work site meeting is held and written authorization to begin work by the IWWA." Bisacky noted the written authorization can be as simple as an email after field inspection to document what transpired.

Under Area A, Item 2 - replace last sentence with the following - "The 25 foot buffer area shall be flagged with a flag off set from each wetland delineation flag at a minimum."

Under Area A, Item 4.c - it had been suggested to delete "with a grassed path for access." Tom Metcalf noted this pertained to the farm use. This was discussed with

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Mr. Cruz to get around the garden area. Chairman Bisacky noted he would not support that. Mr. Davison noted that completely goes against the intent of the buffer. The following sentence should be added – "The outer plantings shall be no less than 25 foot from the wetland boundary." Mr. Davison noted the intention of the buffer is to protect water quality of an intensive agricultural use. There was much discussion regarding trees (60%) and shrubs (40%). It was agreed 8+/- foot center to center is okay.

Chairman Bisacky noted this is a remediation plan for unauthorized activity. It is not an application to provide infrastructure for a possible future use.

Under Area A, Item 4.e – it was agreed the last sentence before the list was fine.

Under Area A, Item 8 – it was suggested the sentence should read "...the inspection period shall extend to such time that an 85% success rate is achieved at the anniversary date of the initial planting." That wording should be reinserted.

Under Area B – delete the 3rd sentence "Currently the area is stabilized." Mr. Snarski noted a comment had been made of pulling the slope back to a 3 to 1 and he strongly disagrees with that because that would mean removing the trees on the side slopes. Bisacky noted the intent is to remove the fill from the base of those trees and from that point back slope it to 3 to 1 not to slope it from the bottom. There was much discussion regarding removal of the fill and what the slope should be. Chairman Bisacky noted the level of the road was raised and perhaps that should be lowered back down. Metcalf noted the base of the trees can be exposed and still keep the driveway as it exists and have a stabilized slope. Bisacky noted he did not see how that could happen. He indicated if the road was removed in that area and the grades re-established that would be fine. Mr. Davison felt the unstabilized fill should be removed. He didn't want the trees to die. There was much discussion regarding the vernal pool, the road itself and stabilization of the slope. It was suggested maybe this area should wait until next spring and work on another area now for remediation.

There was much discussion regarding Area B, Item 4. concerning removal of the fill, the grade of the slope and whether or not a portion of the road has to be removed. Mr. Davison noted the Agency is asking for the fill to be removed around the trees and stabilization of the slope and whatever happens after that happens. Metcalf noted they could remove the fill to the base of the trees and slope it up to the edge of the existing drive as it is today and it will be stabilized. Chairman Bisacky disagreed as it would be steeper than it is now because the edge of the road is essentially at the top of the slope. He didn't see how the road could be saved. There was more discussion regarding the quality of the man made vernal pool.

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Chairman Bisacky noted if the slope is to be left and maybe on its way to being stabilized, why not have a 35 foot buffer around the more important resources on the site. It was noted the critical area is along the brook and perhaps the 35 foot buffer could be in the location of the brook. Mr. Davison noted to him the tree cover and the brook are one of the biggest issues. Mr. Metcalf noted the 25 foot buffer paralleling the brook would be increased to 35 feet. That Area B would then be left as is with no work done to it.

Under Area H, 4. - there was discussion regarding removal of the end pipes and planting of appropriate shrubbery (probably 8) to be approved by Richard Snarski.

Under Area A, Item 4c – the following was added "Along Great Brook from wetlands line to property line a 35 foot buffer zone will be established and replanted to the same specifications as the 25 foot buffer."

Mr. Metcalf noted Area B is now eliminated.

Under Area H, it was noted this section should be edited to remove any reference to Area B.

Under Area C – add "Disturbed areas will be topsoiled with 4" of loam...". It was agreed to leave in the reference to B6 in both Area C and Area D.

Under Area B, Item 6 – 2nd sentence should read "Seed will be annual rye grass and in the Spring of 2014 reseed with Conservation Mix...".

Area D didn't have any changes.

Under Area E, 2nd sentence, reinsert the word "...were partially remediated in May...". Also, remove 4th sentence "Currently, the wetland areas are fully stabilized with a variety of vegetation."

Under Area E-2, Mr. Metcalf noted it is proposed to fill in the machine wheel ruts and ditch and then seed. Mr. Snarski will supervise and monitor this work. Chairman Bisacky noted this work cannot be done without Army Corps approval. Mr. Metcalf indicated he could add in the General Notes that all proposed work in the wetlands areas need approval from Army Corps. It was also noted under 3. "bulldozer" will be changed to "tractor."

Under Area F – there was discussion regarding removal of the tree stump and the re-flagging of the wetland boundary. Mr. Snarski noted he will check and refreshen all

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the flags. The 2nd sentence will read "Sediment/soil will be removed." Also, the word "excavator" will be changed to "hand shovel" in 4.

Under Area I – there is about 1 cubic yard of deposited soil to be removed by hand.

Under Area J – the stones will be removed by wheelbarrow and the filter fabric rolled back and removed by hand.

There was discussion regarding having monuments or fence posts with a suitable placard attached placed concurrently with buffer plantings done in the spring. Chairman Bisacky asked the property owner to think about this and put together a plan that will show where these placards will go.

The proposed schedule of work was reviewed. Mr. Snarski noted the work to be done first is anything that requires grass stabilization.

Mr. Metcalf noted he will revise the narrative and submit it to Ms. Sweeney. Chairman Bisacky noted the Order should be modified this evening and work can be started tomorrow. Mr. Metcalf asked Chairman Bisacky if he would contact Cori Rose and they will also follow up with her as well. Chairman Bisacky noted Tom Metcalf will edit the Remediation Order per discussions this evening and dated October 7th. Copies sent to Sally Sanders and Anna Sweeney. He then noted the Cease & Desist Order will be modified.

The following changes will be made to the Order -

Item 1 – keep.

Item 2 – strike.

Item 3 – strike.

Item 4 – strike.

Item 5 – change first date and strike last sentence. It should read, "All restoration plans that require approval by other authorities having jurisdiction shall be submitted to those authorities no later than October 11, 2013. Violators shall provide proof to the agency that these documents and plans have been sent to the required authorities."

Item 6 – strike.

Item 7 – strike.

Item 8 – modify date to read, "Implement all components of the restoration and mitigation plan dated October 7, 2013 and implement all of the work required in that mitigation plan in accordance of the Schedule of Work in Section 3, Proposed Schedule of Work."

Item 9 – leave as is.

Item 10 – modify to read, "Appear at a meeting of the Inland Wetlands &

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Watercourses Agency regarding the activity in violation of the regulations. This meeting is scheduled for 7:00 PM in the Chester Town Hall on Monday, November 4, 2013."

Motion by Darnell, second by Sanders, to modify Cease & Desist Order for 46 Deep Hollow Road LLC as noted above. Voting in favor – Darnell, Sanders, Seifert, Davison, Senay, Bisacky. Opposed – none. Motion Carried.

6. Regulations and Map Modifications – nothing further to report.

7. Outstanding Orders

(a) Marguerite Komondy, 29 Liberty Street

(b) Phoenix Ventures LLC, 33 Liberty Street

Nothing further to report.

8. Wetland Compliance Officer Report

Ms. Sweeney noted Brian Buckley has advised a piece of cement will be removed from Pelletier Park, regraded and reseeded. Hay bales will be installed.

Ms. Sweeney noted the curbing was removed from the SVJ permit for 233 Middlesex Avenue, the width of the driveway will remain the same.

9. Correspondence – none.

10. Receipt of Applications After Posting of Agenda – none.

11. Any Other Business – none.

12. Executive Session – Pending Litigation – nothing further to report.

13. Adjournment

Motion by Seifert, second by Sanders, to adjourn at 9:55 PM. Voting in favor – Seifert, Sanders, Senay, Davison, Darnell, Bisacky. Opposed – none. Motion Carried.

Respectfully submitted,

Judith R. Brown

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Judith R. Brown, Recording Secretary

RECEIVED FOR RECORD
10/20/13 AT 9:00 M
Suzanne Schuman
Asst TOWN CLERK