

November 12, 2014

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Public Hearing & Regular Meeting on Wednesday, November 5, 2014 at 7:00 p.m. in the **Legislative Council Chambers, Memorial Town Hall, 2372 Whitney Avenue, Hamden, CT** and the following items were reviewed:

Commissioners in attendance:

Nancy Rosenbaum, Chair
Joan Lakin
Stephanie Wilson
Kirsten Jensen
Daniel Liston
Bob Gnida
Kirk Shadle
Mike Stone

Staff in attendance:

Dan Kops, Assistant Town Planner
Tim Lee, Assistant Town Attorney
Tom Vocelli, IWC Enf. Officer
Holly Masi, Acting Clerk
Genevieve Bartolini, Stenographer

I. Regular Meeting:

The Chair called the meeting to order at 7:10p.m., Ms. Lakin called the roll and there was a quorum. Ms. Rosenbaum introduced the Commission and reviewed the meeting procedures.

Pending Applications:

- a. 14-1204** Hillfield Road over Eaton Brook Bridge Replacement
Town of Hamden Applicant

Bob Brinton, the Town Engineer, came forward to address the Commission and review the road and bridge replacement plans on file. Mr. Brinton noted that there was a prior application in 2006 that was denied. The prior application had a different design with proposed road widening with a sidewalk and guardrails. There was a meeting with residents regarding the new proposal and making this a scenic roadway. They reviewed the design as well; Mr. Brinton noted that the scenic roadway designation would have to go to Legislative Council for approval. The proposed design is to make it more like the current bridge. Chad Perkoski, the Project Engineer from BL Companies, came forward to review the details of the design and the plans on file. He reviewed the existing structure vs the proposed replacement structure and the proposed improvements to be made. The proposed improvements are to preserve the wetlands environment as best they can. Kim Lesay, the Environmental Consultant from BL Companies, came forward to address the environmental features as well as 3,600+ square feet wetland and watercourse impact. She noted there would be a minimal impact to the functions and values of the wetlands. She noted the Site Inspection concern about the southeastern bank and reviewed the alternate. Mr. Perkoski noted that the bridge will be constructed during low flow conditions with best management practices and incorporating all the RWA comments and recommendations

(RWA letter on file). The detour during construction was also noted. The contractor submitted a scheme for the bypass with average daily flow for habitat. The duration of construction would be four to six months.

Mr. Gnida asked about green areas and whether they are wetlands. Mr. Perkoski responded yes. Mr. Gnida also asked about the berm and noted concern about increasing velocity of the stream during high rainfall events causing erosion to neighboring properties. Mr. Perkoski noted that the berm will be constructed with natural stream bed material and that the goal of the berm is to prevent high flow. Mr. Brinton noted that the channel is an eroded channel and they would use some of the river rocks for protection. Mr. Gnida is concerned about impact to the neighbor. Mr. Brinton reviewed the flow and didn't feel it would add to the impact. Mr. Liston raised a concern about tree removal and Mr. Perkoski responded that it is for traffic safety, but he will see what can be done. Mr. Liston noted the need for landscaping restoration. Ms. Lakin asked about the height for the natural stone berm. Mr. Perkoski responded that it would not be higher than the way it is now. Mr. Stone asked about the construction timeframe and feels it sounds like a long time. Mr. Perkoski responded that this is a conservative guess and reviewed the process and the need to do the project during low flow periods. Ms. Lakin asked for RWA clarifications and whether the applicant will address and utilize all the best management practices. Mr. Perkoski responded that they would address all RWA concerns and utilize all best management practices.

Mr. Gnida made a motion to approve the application with the condition that the berm be left out; Mr. Shadle seconded the motion. The motion passed unanimously.

Ms. Rosenbaum then introduced the Staff in attendance.

b. 14-1205 Johnson Road over Brookdale Stream Bridge Replacement
Town of Hamden, Applicant

Bob Brinton, the Town Engineer, came forward to address the Commission and reviewed the road and bridge replacement plans on file. He noted this is a very small bridge that is in serious condition. He reviewed the prior design and application that was before the Commission in 2006 that was denied, which had a widened road and involved an abutting property. He reviewed the revised proposal before the Commission and the community meetings that were done and the design that came from those meetings. He reviewed the bridge project that was done on Brooksvale Avenue. He then reviewed the plans on file and the design proposed for this project.

Chad Perkoski, the Project Engineer from BL Companies, came forward to review the details of the design and the plans on file as well as the deterioration of the current bridge. Kim Lesay, the Environmental Consultant reviewed the environmental features and wetlands system noting 1,280 square feet of total impact to the wetlands (590 square feet of temporary impact; 690 square feet of permanent impact). She noted that the functions and values of the wetlands are similar to the other site and it will be the same scenario as the other site. Mr. Perkoski reviewed the construction element, detour and four to six months construction period during low flow period to minimize impacts. Ms. Lakin reviewed the RWA letter (on file) and concerns about utilizing best management practices the same way as the other project and Mr. Perkoski responded that they would address all RWA concerns and utilize best management practices. Mr. Gnida asked about any maintenance plan for the rain garden. Mr. Perkoski responded that it does require some maintenance, which will depend on the conditions to determine what the schedule is.

Mr. Gnida made a motion to approve the application with the requirement that the rain garden be inspected and maintained by the Town noting that the Town is responsible once a year for maintenance as needed; Ms. Jensen seconded the motion. Commissioners discussed requiring Public Works be responsible for the maintenance and Mr. Gnida accepted this amendment to the motion. The motion passed unanimously.

c. 14-1206 60 Overlook Drive-construction of a manufacturing facility
Sixty Overlook Realty Associates, LLC, Applicant

Chris Juliano, Engineer from Juliano Associates, came forward to address the Commission and review the plans on file for construction of an industrial building. He reviewed the existing conditions noting it is an odd shaped property and that one side had been cleared and filled for various projects. He reviewed the topography noting a drop into a small wetland area. The proposal is to construct a 75'x100' building and a mezzanine for office space. Mr. Juliano noted that they would take advantage of the topography of the site with the proposed design. He noted that the site is served by public water, sewer, gas, electric, telephone and cable. He reviewed the site drainage, grading and other details of the plans on file noting the design will result in no net increase in peak runoff to address the Town Engineer's concerns (memo on file). He noted that the RWA comments (letter on file) have been addressed and incorporated into the plans and that he added a stormwater maintenance schedule. He noted approval has been obtained from GNHWPCA.

Ms. Rosenbaum asked who is responsible for maintenance. Mr. Juliano responded that the property owners will be on-site and will be responsible and that they also own the property across the street so they are there all the time.

Mr. Liston made a motion to approve the application; Mr. Gnida second the motion. The motion passed unanimously.

- d. 14-1202 275 & 475 Mt Carmel Avenue – reconstruction of athletic fields
Quinnipiac University, Applicant
(Decision after the close of the Public Hearing)

Ms. Lakin made a motion to table this item to the next regular meeting; Mr. Liston seconded the motion. The motion passed unanimously.

II. Public Hearing:

- a. 14-1202 275 & 475 Mt Carmel Avenue – reconstruction of athletic fields
Quinnipiac University, Applicant

Public Hearing opened at 7:45 p.m. Ms. Rosenbaum reviewed the process, procedures and sequence for the Public Hearing.

Attorney Pellegrino came forward to address the Commission noting that they had done most of their presentation last month. He noted that there were questions about the lighting and the impacts to the wetlands. He stated that Mr. Dyjack will review a Power Point presentation similar to the prior application regarding the proposed lighting. He also stated that the Soil Scientist will make a presentation. He submitted Resumes from the two experts that testified last month; these were marked Exhibits 5 and 6. Exhibit 7 is the Power Point presentation from Andrew Dyjack, the lighting expert who is from an organization that handles lighting for sports. Mr. Dyjack noted he reviews the lighting off the field, not the lighting on the field and notes the spill and glare, how that is reduced, what it looks like numerically, in pictures and in a live presentation. He reviewed how lighting is reduced and what fixtures look like and showed examples of good and bad. Mr. Dyjack reviewed his Power Point presentation and then set up a light meter and a live demonstration was done in the Council Chambers.

Ms. Lakin asked what happens after the game and people are exiting and whether the lights will be turned up for safe exiting. Mr. Dyjack noted that there may be other types of lighting that will address this and that his presentation is about the field lighting only. John Lahee, one of the project designers noted that site lighting will address this question as well as general site lighting. Ms. Lakin asked what the spill is from that. Mr. Lahee noted there will be full cutoff lighting that is 1-2 foot candles similar to that at the York Hill campus, noting the lighting for egress and the requirement for egress lighting that already exists in the parking lot. There was also discussion about the stands and emergency egress lighting and general lighting. Mr. Liston asked if the lighting analysis takes into account coverage for plantings. Mr. Dyjack responded that this is based on zero vegetation or natural screening and that any kind of screening or natural vegetation would mitigate the impact of the lighting further. Ms. Rosenbaum raised concerns about 285-300 feet of spill that would be 10 times brighter than the moon spilling into Sleeping Giant and into the wetlands and feels the spill is going out quite far. Mr. Dyjack responded that the amount of light they are talking about

is pretty dark. Ms. Rosenbaum responded that animals don't know that and also noted that for some animals, the full moon is the brightest light that they ever see. She noted that the gradation goes more than 300 feet into those areas and asked about impact to the State Park. Mr. Dyjack responded that the lighting and analysis is for the wetlands not the park. He also responded that this is not an intense light and that it is intense darkness, not intense light. He noted it is extremely dark and that everyone couldn't see him standing there during the demonstration. Mr. Kops noted the need for another photometric study, which needs to include all the site lighting; the light on the field, emergency lighting and bleacher lighting as well. Attorney Pellegrino clarified that there is no lighting into Sleeping Giant State Park per his review and noted that the photometric measurement across the street is 0. Ms. Rosenbaum reviewed the plan and Attorney Pellegrino clarified the property abutters noting that Sleeping Giant isn't where Ms. Rosenbaum thought it was on the map. Mr. Rosenbaum discussed that if the lighting is 0, it is 0. If it is between .1 and 0, then there is some degree of lighting. Animals see light differently than we do. Attorney Pellegrino feels that the levels we saw in the demonstration have no impact on the wetlands and asked the Commission to keep in mind the testimony of the experts. Light at this level is not going to have an impact on wetland dependent species. Those species don't exist based on the experts physical observations.

Richard Snarski, the Soil Scientist came forward to address the Commission. He missed the last meeting. He reviewed the wetlands plans on file and the planting plans noting the proposed plantings. Ms. Rosenbaum asked why they are proposing plantings in the wetlands. There was discussion about the wetlands plantings. Ms. Rosenbaum questioned the methodology used. She noted concerns as well as reviewed cut and painting vs spraying to address invasive species. Ms. Wilson noted in wetland 1 and 2 a decent amount of clearing and feels what is proposed isn't representative of what is being taken out. She asked why not more shrubs are being placed where they are being removed. Mr. Snarski responded they are taking out exotic invasives. There was discussion between Ms. Wilson and Mr. Snarski about what is proposed to be taken out and what is proposed to be planted.

Ms. Lakin asked why they selected white pine for the wetlands plantings noting that it is native and fast growing and not terribly strong. Mr. Liston asked how tall those plantings will be and noted that they could be 3-4 foot high, but what is the expectation after 5 years. Mr. Snarski responded a foot a year. Ms. Rosenbaum noted needles dropping and referenced the RWA property in her neighborhood that has lots of these trees and that lots of needles fall. She can't believe they would be good in wetlands or on a turf field. Mr. Snarski responded that they proposed this to try to address some buffer concerns. Ms. Rosenbaum noted this is not diverse and not to benefit of wetlands.

Attorney Pellegrino came forward noting that they can work with different plantings or with elimination of plantings.

Ms. Rosenbaum reviewed the regulations and the history of this playing field since it was approved in 1990 noting that for the Quinpiac playing field in that application, they did not state what the buffer would be. It was 25 feet in the write up and QU maintained it, but they came back and in 1994, built synthetic turf field in the north field. The regulations required a minimum of a 25 foot buffer; there was some filling in wetland 1 and 2. The Commission revised the regulations in 2007. Ms. Rosenbaum read the section regarding the non-disturbance zone, which is 100 feet. In this application, one thing that has disturbed her is that there is only a seven foot buffer in the south and a maximum is 14 feet. She feels there has been total disregard of the Town's regulations and buffer. Even the 25 foot buffer, if grandfathered, was not observed. She is quite disturbed.

Ms. Jensen then raised concerns about the crumb rubber fields and discussed concerns about the lifespan, deterioration, degrading and the impacts and possible contamination with regard to zinc runoff.

Scott Bristol, Licensed Environmental Professional from Milone and Macbroom with 25 plus years of experience dealing with all kinds of pollutants in all kinds of environments and who studied athletic turf fields came forward to address the Commission. He noted a 10 year longevity period for the fields. The wear and tear was discussed and the types of tires used for crumb fields. He noted runoff studies to highlight differences between new and old crumb and whether or not contaminated runoff would happen. Mr. Bristol noted studies include fields of different ages and results are remarkably consistent. Mr. Shadle noted that the last application had discussions about chemical release of crumb rubber. Mr. Bristol noted that zinc has been most studied and the standard 10, 25-30 parts per liter. Concentrations were discussed. Ms. Lakin asked given the health and environmental questions, have they considered using natural turf and if not, why not? Attorney Pellegrino responded that they looked at both options and relied on their experts and

thousands of synthetic turf fields in other communities. He noted they are not a health risk per their research and they are comfortable proposing these. The field hockey is a requirement to use the materials in accordance with the court order. Mr. Gnida asked if they are required to be cleansed on any regularity. Mr. Bristol responded that they do not require regular cleaning.

Ms. Rosenbaum then called upon the Intervenor for their presentation:

Marjorie Shansky, the Attorney for the intervenor, came forward to submit a letter and presentation. She noted that she has doubts about the lighting analysis and that the human eyes did not have long enough to adjust in the demonstration for an accurate representation. She also noted animals have different vision and they can't assume for animals. She doesn't see light as a one dimensional experience and noted a perception perspective. She wants to know what was really going on beyond the light. She feels the Commission needs to make a nighttime site visit to a stadium that has similar lighting as the proposal. She doesn't feel they have probative evidence and that it is questionable. She then reviewed her letter marked Exhibit 9. She noted that the Application submission is incomplete. The other lighting is not included in tonight's analysis. She noted the divergence of opinion on ecological communities and also noted that there was no seasonally appropriate vernal pool study.

Mr. Michael Klein, the next expert for the Intervenor came forward and submitted his report, which included a curriculum vitae; this was marked Exhibit 9. He reviewed this report in detail. He stated that the information submitted in the application does not sufficiently address the deficiencies noted in the denial of the prior application. He also noted late submittals. He noted that lighting is one of the largest concerns. He also stated that their proposals to mitigate artificial light flies in the face of all science. He also noted that light pollution in the wetlands remains above levels that would impact the wetlands and that it would be hard to enforce different levels.

Ms. Jensen noted the species inventory, which is insufficient. It noted only some of the data for a portion of the year. Mr. Klein noted that the increased light levels will impact feeding levels, reproductive behavior and fitness. The food web is highly connective. It will alter the habitat. Feeding and reproductive behavior, predatory behavior, travel behavior will all be impacted. She asked about the species they did find, what they are doing and how other species would have an impact based on the lighting impact. Mr. Klein responded it would be hard to predict in advance; they need to observe over time. He noted that community interactions are complex. They can't predict, but are certain it will be adverse because of their adapting to the current situation and this will be altered and all elements will change. He noted that 200 years show us interactions are complex and small changes have greater impacts. Ms. Jensen asked about QU's impact already vs what will happen. There was discussion about what should be there and what impact development would have. Mr. Shadle asked do the species have a sensitivity to different spectrums of the lights and Mr. Klein responded yes, there are differential sensitivities.

Joel Baker, the next expert for the Intervenor came forward and submitted his report, which included a curriculum vitae; this was marked Exhibit 10. He reviewed his report of the review of the application. Mr. Liston asked given the location of the fields and his understanding of the lighting, is there a feasible way to meet the requirements for the lighting of the field and meet the recommended footcandles. Mr. Baker responded that he doesn't think it is feasible.

Attorney Shansky came forward to review her comments noting that in her letter she refers to the project narrative in the application calling this a uniquely suited site for the proposal. She thinks this is argumentative in that it is not an empirically logical statement and that it ignores the environmental context. She also noted that the applicant provides no evidence as to why they are not adhering to the regulations except a need to meet the NCAA standards. She stated that the Commission is not here to meet the NCAA standards and referenced the jurisdiction of the Inland Wetlands Commission. What is fundamental to what we are doing here is to see if there is a way to further use this property in accordance with the standards of the Inland Wetlands regulations. She noted Mr. Klein's letter referenced asking the Commission to review this application and their analysis against the regulations and that if they do this, there is only one conclusion to draw. She noted that the applicant has the burden under the Regulations and the law to establish their eligibility to get a permit and they have not established their eligibility for a permit and she requests that the Commission deny the application. She also referenced the prior application and the denial of that application noting the minutes, which were included in the handouts.

Ms. Rosenbaum asked for public comments:

In Favor: There were no public comments in favor.

Against:

- Julie Hulten came forward to submit a letter marked as Exhibit 11 against the application.
- Calvin Demarsilis came forward to speak against the application noting the wetlands provide a filter for the neighbors on Hogan Road for their well water. He is concerned about the health issues that result from the deterioration of these fields to both the players playing on them as well as for the deterioration and contamination leeching into the wetlands.
- Ross Lanius – 4200 Ridge Road, North Haven lives on one of the ridges. He came forward to speak against the application. He noted that one of his points not answered on page 3 of the 10/1/14 Inland Wetlands Minutes regarding the lighting plan revised to reduce the lighting and the TV vertical eliminated. NCAA Best Lighting Practices only need TV verticals if broadcasting. He also noted that per their rule, they only need 50 foot candles. Why is 75 being proposed? He submitted a copy of the Best Lighting Practices for NCAA marked Exhibit 12.
- Elizabeth Knope – 5200 Ridge Road, North Haven came forward to speak against the application.
- Sue Danenhoffer – 1277 Mount Carmel Avenue – came forward to speak against that application and noted she agrees with all comments against the application.
- Johanne Mangi – 506 Ridge Road. She drives by the fields at night and notes she can't see the field and can't hear anything. She feels the proposal will definitely change that.
- Michael Martucci – 720 Mount Carmel Avenue for 29 years came forward to speak against the application and appreciates the diligence of the Commission.
- Susan Nally – 445 Hogan Road came forward to speak against the application. She opposes the application strongly.

General Comments:

Michael Montgomery – 140 Still Hill Road, former Commissioner, came forward to speak about the application. He is a Research Scientist, Forest Entomologist with experience in Environmental Assessments, trees, forest community and ecology. He submitted the following Exhibits:

Exhibit 13 – Terminology and spectra in response to light with handwritten notes on the materials submitted.

Exhibit 14 – Athletic Field Lighting with handwritten notes on the materials submitted.

Exhibit 15 – emailing the document

He noted he would email all the exhibits and stated that he has four key issues to raise: 1. Lighting, which he feels the analysis is insufficient and there is no guarantees of compliance, 2. the Buffer Zones, which he is concerned about the violation of the 25 foot buffer requirement, 3. Use of herbicides, 4. Enhancement and restoration of the wetlands, which he feels is inadequate.

Mr. Montgomery suggested looking at feasible alternatives such as demolishing the Public Affairs Building or looking at alternate locations. He noted the need for night lighting is not apparent. He noted that the benefit of the lighting needs to be measured against the risk to the wetlands. He feels there needs to be much better and more accurate

information. He discussed lighting terms and noted that Lux determines the brightness level and that is ten times greater than the light of the full moon. He doubts the whole presentation with regard to light and has concerns about the terminology used. He also noted that insects see light differently than humans. He asked about the light levels reaching the canopy of the trees. He is concerned about the white pine buffer proposed. He doesn't think the white pine buffer is the best species. He thinks the plantings should be moved away from the wetlands edge. He reviewed the height and noted that trees will end up wider than tall; he also raised concerns about the pine needles falling into the wetlands. He is concerned about the insect resistant non native trees outside the buffer zone and at the edge farthest from the wetlands. He also feels more information is needed with regard to impact regarding different trees, heights, etc. Spraying of herbicides was also mentioned in the previous denials. He noted more effective approved alternatives and referenced the list proposed by the DEEP, which will be in the Exhibit to be emailed. He feels spraying done should be done as the last resort. He suggested removing the invasives, applying seed, then come later when they are germinated and then spraying will affect what you are planting more than what you are trying to control. He feels the restoration of the wetlands crossed is minimal and nothing about the soil is noted in the plans. This area has been mowed for several years. He feels an evaluation of the soils is needed and the soils need to be restored to support wetlands plants and then the area needs to be replanted. Mr. Snarski is a wetlands restoration ecologist and Mr. Montgomery is disappointed that he hasn't come up with better plans. The approach of QU seems to be what is the minimal needed. He feels they need an equivalent restoration that should be a showcase of the University's regard for the wetlands. The same approach should be used for wetland number 1. It is not clear if the drainage pipe will be removed. It is difficult to understand what were historical wetlands in that area. It was so highly disturbed. He asked what QU can do to restore it to be a superior functional wetland. White Pine Planting is just inappropriate. He asked why the buffer has been suffering so much since 1990. Mr. Montgomery concluded his comments against the application and agreed to answer questions at another meeting if necessary.

Ms. Rosenbaum noted the lateness of the hour and the need to continue the Public Hearing to the next meeting. She asked Attorney Pellegrino if he would agree on a 35-day extension to complete the Public Hearing. Attorney Pellegrino agreed on the record to the extension.

Ms. Lakin made a motion to continue the Public Hearing to the next regular meeting; Ms. Jensen seconded the motion. The motion passed unanimously.

III. Other Business – *Items 1-4 were tabled to the next regular meeting of the Commission.*

1. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appear

- a. **N.O.V.** 64 Rocky Top Road – clearing of trees & removal of vegetation
- b. **N.O.V.** 251 Weston Street – oil spill or discharge
- c. **N.O.V.** Lot 10-Benham Hill Estates (aka 0 Benham Hill Place)
Failure to repair & maintain stormwater detention basin

2. Review Site Inspection Schedule

3. Review of October 1, 2014 Meeting Minutes

4. Other Business

5. Adjournment

Ms. Lakin made a motion to adjourn; Mr. Shadle seconded the motion. The motion passed unanimously.

The meeting adjourned at 10:55 p.m.

Submitted by: _____
Holly Masi, Acting Clerk of the Commission