

January 11, 2016

**MINUTES: THE INLAND WETLANDS COMMISSION**, Town of Hamden, held a Regular Meeting on Wednesday, January 6, 2016 at 7:00 p.m. in the Legislative Council Chambers, Memorial Town Hall, 2372 Whitney Avenue, Hamden, CT, with the following results:

*Commissioners in attendance:*

Joan Lakin, Chairperson  
 Kirk Shadle  
 Kirsten Jensen  
 Stephanie Wilson  
 Amanda Kallenbach  
 Mike Stone, arrived at 7:14  
 Dan Liston, arrived at 7:08  
 Mike Milazzo  
 Jonathan Clapp  
 Lauren Wholey

*Staff in attendance:*

Dan Kops, Acting Town Planner  
 Tim Lee, Assistant Town Attorney  
 Tom Vocelli, IW Enforcement Officer  
 Stacy Shellard, Commission Clerk

Ms. Lakin called the meeting to order at 7:01 p.m. Mr. Shadle called the roll and there was a quorum. Ms. Lakin introduced the Commission and Staff.

## **I. Regular Meeting:**

### **1) Pending Applications**

- a. 15-1211** 303 & 311 Highland Avenue, 124, 128 & 132 Edgewood Avenue  
 Consolidation of 5 lots into 2 lots & construct 2 single-family homes  
 James Wrzosek, Applicant  
*Postponed until the February 3, 2016 meeting at the request of the Applicant*

Ms. Lakin stated that the application has been postponed at the request of the applicant.

- b. 15-1213** 406 Ives Street-construct a single-family house  
 Golden Properties LLC (Anthony Zammataro), Applicant

Ms. Lakin stated that the application was withdrawn at the request of the applicant.

- c. 15-1214** 2040 Dixwell Ave, Conversion of a grass baseball field into a synthetic turf field, Hamden Board of Education, Applicant

Ms. Lakin noted that Ms. Jensen was not in attendance at the site inspection held on November 8, 2015.

Mr. Tim Lee, Assistant Town Attorney, stated that a petition for intervention was filed under C.G.S. 22a-19 by Ms. Nancy Alderman on behalf of Environment and Human Health, Inc. He noted that the Commission has allowed petitions for intervention in the past. However, by virtue of the petition Ms. Alderman has requested that she be made a party to this application for purposes of participating in the hearing on the matter. The application involves the Town of Hamden, Board of Education and the applicant is represented by Ms. Ann Catino, Attorney.

Mr. Lee stated that Ms. Catino sent him a letter objecting to the petition for intervention noting two concerns. The petition was not properly verified and does not qualify as a petition under the general station. Also, assuming that the petition is considered valid by the Commission, many of Ms. Alderman's issues involve claims about effects on public health which exceed the scope of the jurisdiction of the Wetlands Commission. If the Commission were to accept the petition for intervention Ms. Alderman's comments would be limited solely to the impacts on the wetlands and watercourses and not to threats to the public health and safety in general.

Mr. Lee stated that Ms. Alderman submitted a revised petition which may resolve one of the issues of whether it is a properly verified petition.

Ms. Lakin asked Ms. Wholey and Mr. Clapp if as new commissioners they had familiarized themselves with the material and they indicated yes.

Ms. Ann Catino, Attorney, addressed the Commission and stated that she was given and reviewed the revised notice of intervention filed by Ms. Alderman on behalf of Environment and Human Health Inc. to determine whether or not it is sufficient under the Connecticut Environmental Protection Act. Ms. Catino reviewed her letter dated January 6, 2016 which identifies the prerequisites to an appropriate intervention. Ms. Catino stated that the revised intervention letter is not in the form of an affidavit. The specific facts must relate to the application and cannot be general statements or speculative. Ms. Catino feels that the revised notice of intervention fails.

Mr. Lee asked Ms. Alderman to address the Commission.

Ms. Nancy Alderman, President, Environment and Human Health, Inc., addressed the Commission and stated that she is only interested in the intervention for inland wetlands purposes. She does not feel that she submitted anything that does not address inland wetland issues. Ms. Alderman submitted the Yale University findings because there are four chemicals that are toxic to aquatic life. The other submittals only deal with inland wetlands. Ms. Alderman said that the group of ten people, who make up Environment and Human Health Inc., are physicians, lawyers, public health professionals and toxicologists.

Mr. Lee asked Ms. Alderman if she has specific information regarding the impacts on the wetlands and watercourses of this specific application. Ms. Alderman replied that the field will have infill of crumb rubber and her testimony will address the crumb rubber.

Mr. Lee stated that Ms. Alderman has submitted an affidavit swearing to the truth and accuracy of what is set forth in her petition. He said that the Commission in the past has been liberal in allowing an intervener to speak. However, Ms. Alderman's comments must be solely related to impacts on the wetlands and watercourses only.

Ms. Lakin asked for a motion to accept Ms. Alderman's intervener petition and allow her testimony.

***Ms. Kallenbach made the motion to accept Ms. Nancy Alderman's petition for intervener status pursuant to this application. Mr. Shadle seconded the motion. Mr. Shadle, Ms. Kallenbach, Mr. Liston, Ms. Wilson, Ms. Wholey and Mr. Clapp voted in favor of the motion. Mr. Milazzo and Ms. Jensen voted against the motion. Therefore, the motion passed 6-2-0.***

Ms. Lakin asked that the record reflect that Mr. Stone is in attendance (7:14 p.m.).

Ms. Catino introduced the presenters, the applicant and representatives of the Hamden Board of Education who are in attendance. She reviewed the request for the multi-purpose fields and the proposed drainage of the fields. Ms. Catino stated she recognizes that Ms. Alderman has been granted intervention status and her comments should be limited to the impacts to the drainage ditch from the runoff associated with the proposed synthetic field. Ms. Catino stated that the Commission must determine if Ms. Alderman's testimony has given a reasonable likelihood of unreasonable pollution or destruction of waters of the State. She further explained that Ms. Alderman's intervention does not expand the jurisdiction of the Commission beyond what the statutory authority is for the wetlands and the watercourses. Ms. Catino stated that the area in question is not really a watercourse, but a drainage ditch. Further, Ms. Alderman's job is to carry the burden and show reasonable likelihood of unreasonable pollution. Ms. Catino said that the applicant will demonstrate that there is no impact at all to the wetland and watercourse and that the application should be granted.

Mr. Vince McDermott, Senior Vice-President, Milone & MacBroom, addressed the Commission and reviewed the history of the existing field and the proposed plan. He reviewed the improvements that were made to the track and football field. Mr. McDermott stated that due to the existing drainage issues on the baseball field students must be transported off the site to play.

Mr. McDermott reviewed the existing site and its conditions. He reviewed the existing conditions of the drainage ditch and the watersheds that contribute to it. Mr. McDermott explained that the Town reviewed the existing easement with the State of Connecticut Department of Transportation and he noted that the DOT has reviewed the proposed plans and issued a letter approving them. Mr. McDermott stated that the RWA and GNHWPCA have reviewed the proposed plans and they have no objections. He noted that a variance was granted to replace the existing lights.

Mr. William Root, Certified Soil Scientist, addressed the Commission and reviewed the existing conditions report dated October 5, 2015. He noted that the drainage from Mix Avenue, the Plaza, the High School and the existing fields outlets to a pipe near the Merritt Parkway Entrance and a pipe that conveys water underneath the Parkway toward property of the RWA and Lake Whitney. There is a small section of open water between the discharges of one pipe to the other. He reviewed the area of the pipe and the drainage from neighboring properties. After investigating where the drainage was coming from, Mr. Root determined that the flow was consistent and marked the area in question as a watercourse. Mr. Root reviewed the impact assessment that he completed. He noted that there will be no increase in disturbance in the regulated area with the proposed field. Simple erosion controls will protect the small drainage way from damage. Mr. Root reviewed the functions and values of the area.

Mr. Shadle questioned if Mr. Root saw where the water terminates. Mr. Root replied that he went to the outfall that crosses under the Parkway Entrance Ramp. Mr. Shadle referred to the picture submitted of the existing drainage pipe and asked if it is the pipe that will drain the proposed turf field. Mr. McDermott reviewed the existing drainage pipes as they relate to the parkway and the existing site with Mr. Shadle. Mr. Shadle asked if the proposed field increases the flow of discharge to the existing watercourse. Mr. McDermott replied no and reviewed the drainage report that was submitted with the application.

Mr. Kevin Fuselier, Landscape Architect, addressed the Commission and reviewed the Site Development Plan. He noted that the proposed field will be a multi-purpose field and include soccer and field hockey. He reviewed the proposed amenities. The field will be synthetic turf. A portable pitching mound will be used for the baseball field to allow it to be removed so that the site can be used as a multi-purpose site.

Mr. Fuselier reviewed the proposed grading and S&E controls. He reviewed the Utility Plan and the Stormwater Management Plan.

Ms. Kallenbach asked if there will be tree and vegetation loss with the proposed work. Mr. Fuselier said that the low shrubbery will be removed bi-annually by the maintenance staff. It is cleared because the players need to be able to go into the area to retrieve foul balls. The proposed field will be moved in and there will be no tree loss.

Mr. Scott Bristol, Licensed Environmental Professional, addressed the Commission and reviewed his resume. He reviewed the documentation submitted by the intervener as it relates to the use of the crumb rubber and stormwater runoff vs. his findings addressed in the Analytical Report, dated December 7, 2015.

Mr. Shadle asked who ran the aquatic testing. Mr. Bristol replied that he did and the test was done through the Connecticut Testing Lab. Mr. Shadle asked where the samples were taken from. Mr. Bristol & Mr. McDermott reviewed the sample locations shown on the Existing Conditions, dated December 2, 2015 and the validity of the findings with Mr. Shadle. Ms. Jensen discussed the type of testing performed on the track and field with Mr. Bristol. Mr. Bristol advised the Commission that testing sample locations were done on the track and 2/3 of the field. The Commission further discussed the testing locations with the applicant.

Mr. Shadle questioned the exposure time from a rain event. Mr. McDermott and Mr. Bristol reviewed the exposure time and a Toxicity Report that was completed by Milone & MacBroom vs. the DEEP Toxicity Report.

Ms. Jensen asked what the life span of crumb rubber is and if there are any studies addressing the degradation of the materials over time. Mr. Bristol explained that the life expectancy is approximately 10-12 years. The rubber used is made from tires and tires are made to last. Mr. Bristol said that the particles overtime will have a slight oxidation coating similar to what rust would be and he does not expect any real changes overtime. Ms. Jensen discussed with Mr. Bristol the time span of when the testing was done.

Ms. Alderman stated that her organization has been working on the issues related to synthetic turfs for ten years. One area of studies has been leachability and the effects on water and watercourses. Ms. Alderman stated that children playing on crumb rubber get it into their socks, shoes, hair and eyes. She noted that this is how crumb rubber gets off the field and must be replenished. Because the materials move off the fields onto people's cars and homes, it also gets into the watercourses. Ms. Alderman stated that in every field there are 40,000 grounded up rubber tires that are not uniform in type. Ms. Alderman reviewed the materials she submitted and discussed the academic study findings vs. industry study findings.

Mr. Milazzo asked Ms. Alderman what her professional experience is in the area of crumb rubber. Ms. Alderman reviewed her resume and the resumes of the members of Environment and Human Health, Inc.

Mr. Milazzo asked if anything was done in respect to this site that would provide proof that the runoff of this system would be harmful to this site. Ms. Alderman stated that a heavy rain must go somewhere such as the Mill River and how the use of crumb rubber is interconnected with watercourses. Mr. Milazzo asked if there is any information specific to this site. Ms. Alderman said that the drainage pipe will lead somewhere.

Mr. Stone asked Ms. Alderman to respond to the applicant's criticism of the Empire State Consumer Project. Ms. Alderman replied that there is a report on children's health which includes a section on synthetic turf and metal findings. Ms. Alderman reviewed the report because she felt it had significant findings. Mr. Stone and Ms. Alderman discussed the levels of zinc noted in the report.

Ms. Catino stated that Ms. Alderman's comments lacked specific factual evidence as it would relate to this site. Ms. Catino said that Ms. Alderman is not a soil scientist and did not identify wetlands on the site. Ms. Catino reviewed the applicant's findings vs. the intervener's findings. She feels that Ms. Alderman's did not present proof that there is a level of unreasonable pollution to wetlands and watercourses. Ms. Catino said that the application fulfills all the requirements under the Connecticut Environmental Protection Act. She said that Intervener must provide facts and evidence and carry the burden of the proof. Ms. Catino said that the Commission must determine if the evidence provided by intervener shows unreasonable pollution by the conduct of the Town, then the Commission must determine if there are reasonable and prudent alternatives. The goals set by the Town are to provide a multi-purpose field. Ms. Catino further summarized the applicant's findings vs. the intervener's findings.

Mr. McDermott said that Ms. Alderman had stated that crumb rubber comes off the fields via children who use the field and that his past experiences with the construction of fields have not seen an extreme amount of refill used. He

said that the specifications used for the first field reconstructed at Hamden High School spelled out the source of the crumb rubber. Mr. McDermott submitted & reviewed Alternatives to Current Proposed Field and does not feel that they are reasonable, prudent and feasible.

Mr. Shadle discussed the existing water peak discharge with Mr. McDermott. Mr. Shadle asked if there are any proposed enhancements to accommodate the water flow. Mr. McDermott replied that there are no enhancements proposed. After discussions with the CT DOT it was determined that it is the DOT's responsibility to maintain the area. As part of the project the applicant has offered to do some maintenance of the channel. Mr. Shadle asked if there is any documentation of the discussion with the DOT. Mr. McDermott replied no.

Ms. Catino stated that no evidence was presented to show unreasonable impact on wetlands and watercourses and that the application should be approved.

***Mr. Shadle made the motion to approve Application 15-1214 at 2040 Dixwell Avenue with the following conditions:***

***1) The splash pad and erosion control measures that have taken place at the discharge pipe leading to the watercourse and the outflow from the watercourse to the connecting 36 inch pipe be cleaned. 2) All recommendations made by the RWA be incorporated into the plan. 3) Final site plans are to be signed off by the Commission Chair. 4) On completion of the enhancement work in the watercourse, the wetlands enforcement officer inspects and issues final approval.***

***Mr. Milazzo seconded the motion. Mr. Shadle, Mr. Milazzo, Mr. Liston, Ms. Jensen, Mr. Clapp, Ms. Wilson, Ms. Wholey and Mr. Stone voted in favor of the motion. Ms. Kallenbach abstained. Therefore, the motion passed 8-0-1.***

## **II. Other Business**

### **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.** Lot 10-Benham Hill Estates (aka 0 Benham Hill Place)  
Failure to repair & maintain stormwater detention basin

Ms. Lakin stated All Notices-of-Violation remain tabled.

### **2. Review Site Inspection Schedule**

There were none.

### **3. Old/New Business**

- 1. Discuss conditions of approval for 170 Birchwood Drive (IWC #13-1187)

Ms. Lakin stated that the Commission's 2013 denial for this location was challenged in the courts. The decision of the court was that the Commission must approve with reasonable conditions. The Commissioners that were sitting at the time of the original denial were Mr. Shadle, Mr. Milazzo, Mr. Stone and Ms. Lakin. Ms. Lakin stated that these members will be part of a committee chaired by Mr. Shadle that will recommend conditions of approval and present them to the Commission at the February 3, 2016 meeting for approval. Mr. Vocelli has drafted a list of possible conditions for the committee's consideration.

Ms. Lakin stated that 270 Brooksvale Avenue will be discussed and that she is recusing herself. Mr. Shadle temporarily assumed the chair.

Mr. Tim Lee, Assistant Town Attorney, explained to the Commissioners that Mr. Frank Conroy, owner, is appealing the decision of the Wetland Enforcement Officer denying a request for a de minimis ruling with respect to the property at 246 Brooksvale Avenue that is owned by Mr. Conroy. It is a rear lot that has a right of way over someone else's property at 270 Brooksvale Avenue. Mr. Conroy would like to do some tree clearing within the right of way to access his lot for test pitting. The test pits and trees would fall within the jurisdiction of the Wetlands Commission. Mr. Tom Vocelli, Wetland Enforcement Officer, was asked to approve a de minimis application. However, the regulations require consent from the owner of the property at 270 Brooksvale Avenue to submit an application. Mr. Lee stated that upon his recommendation Mr. Vocelli denied the de minimis application and Mr. Conroy is appealing the decision to the Commission. Proper notice must be given to the property owners involved and the appeal can be heard at the February 3, 2016 meeting. Mr. Lee discussed the requirements for appealing the de minimis ruling and the required signatures with the Commission. Mr. Vocelli stated that he has tried to contact Mr. Busca the owner of 270 Brooksvale Avenue and will continue to try to reach out to him to encourage him to attend the February 3, 2016 meeting.

Mr. Frank Conroy, addressed the Commission and stated that Susan Kulis is owner of record at 246 Brooksvale Avenue. He noted that he had emailed the appeal request on December 15, 2015 to Mr. Vocelli prior to delivering it on Monday and Mr. Vocelli had said he did not receive the email. Mr. Vocelli stated that he had no doubt that Mr. Conroy sent the email, but he did not receive it. Mr. Lee advised that the request to appeal should be added to the February 3, 2016 meeting agenda

Mr. Shadle confirmed with Mr. Conroy that he is now in contact with Mr. Vocelli and understands that the process can now move forward on February 3, 2016.

#### **4. Review of November 4, 2015 Meeting Minutes**

Mr. Liston made the motion to approve the November 4, 2015 Meeting Minutes. Mr. Milazzo seconded the motion. Mr. Liston, Mr. Milazzo, Ms. Kallenbach, Mr. Stone, Mr. Shadle and Ms. Jensen voted in favor of the motion. Mr. Clapp, Ms. Wholey and Ms. Wilson abstained. Therefore, the motion passed 5-0-3.

#### **5. Adjournment**

*A motion to adjourn was made by Mr. Stone and seconded by Ms. Kallenbach. It passed with no dissenting votes.*

The meeting adjourned at 9:14 p.m.

Submitted by: \_\_\_\_\_  
Stacy Shellard-Clerk of the Commission