

TOLLAND INLAND WETLANDS COMMISSION

Thursday, August 4, 2011

7:00 p.m.

Council Chambers

Hicks Memorial Municipal Center

21 Tolland Green

Members Present: Lee Lafountain, Chairman
Archie Tanner, Vice Chairman
Beth Banning, Regular
Joe Bushey, Regular
Patti Hollay, Alternate

Absent Members: Stan Tetrault, Secretary
Brendan Marinan, Alternate

Others Present: Steve Mantlik, Citizen
Ron Ochsner, attorney representing the Town of Tolland
John Ianni, soil scientist
Linda Farmer, Director of Planning and Development
Clem Langolis, Director of Public Works
Steve Werbner, Town Manager
Mike Wilkinson, Director of Administrative Services

REGULAR MEETING

1. Call to Order at 7:11pm. Seat Hollay for Tetrault.
2. Accept Minutes of the July 21, 2011 meeting.

Accept Minutes of the July 21, 2011 meeting

Tanner/Bushey: motion to accept the minutes of July 21, 2011

Banning/Tanner: motion to table discussion until the end of the meeting.

Unanimously approved.

3. Public Comments

Steve Mantlik, Jr. of 294 Baxter Street asked Lowrey the difference between cinder block and cement block. Mantlik asked if there is a difference in disposal requirements. Mantlik said the blocks on the site were old chicken coops and that have since been dismantled and buried on the site. Mantlik said the disposal area has been disturbed.

Mantlik asked how the wetlands are flagged. Mantlik said he saw testing being done and asked who was doing what. Lafountain said CMG Environment has been doing testing on the site and that John Ianni completed the flagging of the wetlands. Hollay told Mantlik that the state has not been notified to date.

OLD BUSINESS

1. Discussion about activities in the regulated area at 287 Baxter Street

Ochsner said the Town Attorney, Rick Conte contacted him because Conte had to excuse himself from this matter. Ochsner said he is representing the Town. Ochsner said the Town contacted John Ianni to survey and flag the wetlands and CMG Environmental to complete testing. Ochsner referred to the report written by CMG and summarized by saying that the fill material and soil testing is negative in CMG's opinion. Ochsner said he hopes to improve the relationship between this Commission and the Town employees.

Ianni identified himself as the professional soil scientist hired to survey and flag the wetlands. Ianni provided 2 maps of the site and reviewed the wetlands that he had delineated. He said there was no wetlands filling and only minor encroachment into the regulated area. Ianni reviewed the map and explained that there was 574 sq ft of encroachment and 2,300 sq ft of topsoil removed from regulated area. Ianni identified a farming swale that is considered a watercourse and also the 100-foot

wetlands buffer line from the swale. Ianni also said inland wetlands were delineated and there was no additional clearing of vegetation since the Town bought the property. Natural soils were present; there were some areas where topsoil was removed with natural soils underneath. Ianni said there was no encroachment into the wetlands and 2 small areas of encroachment into the regulated areas. Ianni said there was a large hedge row of fill that had been placed in the regulated area some time ago that has been removed by the Town. Ianni identified an 8-12 inch lip between the wetlands and the stripped area and acts as a silt basin and protects the watercourse. He said he did not find any significant erosion into the stream and that currently, there was no water in the swale. Ianni said there are some invasive species growing. Ianni reviewed that the Town wants to create a ball field on the property and plans to bring a proposal and request for permit to construct the ball field to the Commission. Ianni said the Town is going to request permission to leave to disturbed wetlands until a plan can be developed so that the areas would not have to be remediated twice.

Ianni said that the ball field plan would include a proposal to restore the disturbed wetlands and also include an invasive species management plan. Ianni said the Town is also requesting that the order to be lifted so the stock piling of fill can resume until the plan is developed. Soils would stock piled inside the boundaries of the fill presently on site and outside the regulated area.

Lafountain asked about the northern most point of the property. Ianni said the topsoil was intact only smoothed but that an invasive species taking hold and the ball field plan would include restoration and invasive species management. Lafountain said there are some areas where the soil is more coarse and sandy and seemed to be different than what appears to be native in an area that was not flagged as wetlands. Ianni said most of it is intact and the subsurface is intact. Ianni said those soils are mostly veneer of sand. Lafountain asked how those soils would have mostly been disturbed. Lafountain asked how deep the cores were. Ianni said 24"; and that 20" is required to delineate wetlands.

Lowrey provided Ianni a satellite map that more accurately shows the present conditions of the site but that it is not perfectly aligned. Hollay asked about the depth of fill materials and that it was deeper than 24 inches. Ianni said there are photos of older fill material being present on the site. Ianni said he would submit a letter of certification of the wetlands and will submit that to the wetlands agent as soon as possible. Lafountain asked about the nature and value of the disturbed area. Ianni said he did not characterize that area because there did not seem to be a soil issue.

Hollay read the report from CMG environmental. Report to be attached to the minutes.

Ochsner said there is a typographical error of a date on the second page and that date should be August 1, 2011. Lowrey said he was present on the site for the testing in compliance with the Order of the Commission. Bushey asked how the test pit locations were chosen. Lowrey said they chose one site and then created a grid to collect random samples. Lowrey said they were grab samples and did not come from below the native soils. Lowrey said they did not run into any blocks. Bushey asked if asphalt is clean fill. Lowrey said he has been told by DEP that asphalt is considered clean fill. Ianni said agreed with Lowrey.

Ianni said the paint on the concrete was identified was determined to be latex paint. Langolis said the final report is pending. Ianni said he believes that street sweeping are also clean fill. Hollay said she would like to receive confirmation of what constitutes clean fill from the DEP.

Lafountain asked if the concrete block has been deposited in the regulated area. There was agreement that concrete blocks were not in regulated area. Hollay asked what was deposited in the regulated area. Lowrey said no samples were taken from the regulated area. Bushey said that he had seen asphalt in the regulated area. Langolis said there are also street sweepings. Hollay said there should be someone more familiar with the regulations should be contacted.

Lafountain asked if asphalt is considered to be clean fill. Hollay asked Langolis if street sweepings should be considered regulated waste. Langolis said he thinks sweepings are considered to be clean because the salt is no longer present.

Bushey suggested that it might be beneficial for testing to be done for zinc, copper cadmium and chromium instead of lead. The presence of these metals would make the soils contaminated. Hollay asked if there was a more appropriate place to place the fill. Langolis said he has been filling the area for 5 years. Bushey said it would be difficult to find places to deposit fill. Lowrey said there was a discussion at the last meeting regarding the gasoline contamination and the lead contamination but that nothing significant was found.

Banning asked Ianni to review the scope of the disturbance. Ianni said that there were 574 sq feet of fill in the regulated area and 2,300 sq ft of topsoil in the upland review disturbed.

Langolis called Clark, of CMG Engineering and placed Clark on speakerphone. Bushey asked Clark about the testing procedures and whether low pH testing and extraction method was used. Clark said they run total lead and precipitation leeching procedure. Bushey asked about EPA method 60-10, and if the extractions are kept. Bushey asked if additional testing could be completed. Clark said the metals Bushey referred to; zinc, copper, cadmium and chromium are not typical in street sweepings. Bushey disagreed.

Bushey asked Clark how test pits were chosen. Clark said he considered basic elevation and up gradient side of fill materials

Banning asked if any test pits were within the regulated areas. Clark said he did not consider regulated areas and no test pits were in the regulated area. Hollay asked Clark definition of clean fill. Clark said regulation has not been changed since 1996. Hollay asked whether the monitoring well cap and pipe would be considered clean fill. Clark said he didn't see that, but it would be considered a solid waste but would not be considered a contamination issue.

Bushey asked about the QA/QC standard. Clark said he was not sure about that, but would contact the lab in the morning and provide details. Hollay asked Farmer when the town decided to put in a ball field. Farmer referred to Langolis. Langolis said the plan has been in place since the town has owned the property, about 5-6 yrs. Hollay asked there was a plan to come the wetlands commission to present a plan. Tanner said it did not appear to him that any plan has been followed and that the plan was to continue to push into the regulated area. Langolis said he was just trying to get to 240 feet. Tanner said all of that would have been in the regulated area. Tanner said the problem is that, in his opinion, there was disregard for the wetlands and than an application should be been applied for. Lafountain said if there activity proposed within 500 feet of wetlands the Commission or Wetlands Agent should have been consulted.

Lafountain said there was incursion and filling into a wetlands area. . Tanner said there should have been a plan. Hollay said Mantlik had told the Commission that there was a town employee disposing of fill on town property. Langolis said they are accepting fill from a variety of places including private property and the Town of Coventry. Lafountain asked Langolis how the determination of whether fill is clean or not. Langolis said he did not ask.

Bushey said Langolis is approaching the wetlands and should have come before the Commission. Bushey said that because there is encroachment the Commission should be have been notified and involved.

Werbner said the Town has answered all of the questions and there will be changes to standard operative procedures to keep mindful of the regulations. Lafountain said the Commission is very considerate of the Town's concerns. Tanner said the Commission has requested change in the past and thus far the concerns of the Commission have not been considered appropriately. Werbner said there is a commitment to protect the wetlands and the procedures are lacking and will be improved for the future. Lafountain said the Commission would be willing to assist with the development of the procedures. Werbner said that the Town is committed to the preservation of the wetlands. Werbner said the Town would return to the Commission when the plans have been completed. Lafountain encouraged the Werbner to come to the Commission along the way as the plan is developed.

Werbner said there were some strong comments made during the prior meeting which are concerning to him. Hollay asked Werbner why Wilkinson did not follow up with Mantlik's concerns. Werbner said Mantlik came in at the end of the day and expressed concern regarding the dumping of fill. Werbner said he was notified by Wilkinson and the situation was discussed with Langolis. Lafountain said the Commission has no jurisdiction in this regard. Werbner said there was no mention of wetlands at the time of the original complaint.

Ianni asked that the order be modified allow for continued work on the site areas and to maintain the wetlands in their present condition until a plan could be developed.

Bushey/Banning: motion to modify the order as follows:

1. Allow the Town to continue to stockpile fill within the bounds of the existing footprint of the current fill.
2. The town shall be allowed to maintain the fill as is within the regulated area on the site until a plan to developed the site is approved.
3. The town is allowed to maintain the current area of removed topsoil within the regulated area until such time as a plan to developed the site is approved.

Bushey, Lafountain, Tanner, Banning for. Hollay opposed.

Bushey and Lafountain expressed that the tone of the Commission is the same as it would have been with any other person when the Commission believes wetlands regulations have been violated. Werbner respectfully requested that the Town be notified in advance if there is a complaint that takes issue with the Town.

2. Proposed changes to the Inland Wetlands and Watercourses Regulations

Lowrey provided Commissioners with the revised wording for the regulations. Commissioners agreed to changes.

Bushey/Banning motion to pass the amendments as drafted and revised.

Unanimously approved.

Lowrey asked Commissioners to discuss the effective date. Lowrey said August 15, 2011 should be enough time to get it publicized and to the town clerk. Commissioners agreed with effective date of August 15, 2011.

NEW BUSINESS

Receipt of Applications

IWC #563-Nordic Builders: 305 Mile Hill Rd.; Requesting permit to reconstruct a curtain drain in the Upland Review Area and muck out a sediment pond in a watercourse.

Lowrey provided commissions with the application and map for the project. Lowrey described the project and reviewed the map. Lowrey said the driveway is heaving because there is a culvert underneath that is getting filled with soil. Lowrey said they want to clean out the pond and that there is a dam and they may want to lower the dam to reduce the height of the water in the pond. Lafountain asked about the location of the curtain drain. Lowrey described the drain flow. Lowrey invited commissioners to visit the site. Bushey expressed some concern about sedimentation control.

GENERAL BUSINESS

1. Correspondence
2. Other Commission Business
 - a. Commissioners requested that Lowrey review the tape of the last meeting to see if the Commissioners decided to contact the DEP prior to voting on the minutes of the July 21, 2011 meeting. Lowrey agreed to review the tape. Discussion regarding whether concrete and street sweepings are considered by DEP to be clean fill. Hollay said there are too many conflicts of interest and that DEP should have been notified. Commissioners discussed that a lot of these issues are outside of the jurisdiction of the wetlands commission. Hollay said she does not want contaminated fill in a regulated area. Banning said she agrees that if the Commission said they were going to contact DEP then DEP should be notified.

Banning/Tanner: Motion to table the vote on accepting the minutes of the July 21, 2011 meeting until the tape can be reviewed.

3. Adjourn

Banning/Hollay: motion to adjourn.

Unanimously approved.

Meeting adjourned 9:21 pm

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "June Kausch". The signature is written in a cursive style with a large, looping initial "J".

June Kausch
Clerk, Inland Wetlands Commission