

**APPROVED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Wednesday, January 22, 2014 – 7:00 p.m.
TOWN HALL MEETING ROOM # 135**

1. Convene Meeting

Chairman J. Vulcano convened the meeting at 7:06 p.m. and established a quorum of members.

2. Roll Call and Designation of Alternates

Present: Chairman J. Vulcano, Vice Chairman L. Miller, Secretary S. Fox, A. Finelli

Absent: None

Also Present: Wetlands Enforcement Officer K. Daniel, Recording Secretary D. Cioffi

Chairman Vulcano moved to go to Agenda Item 4.a. Vice Chairman Miller seconded the motion, and it carried unanimously.

4. Old Business:

- a. **18 North Lake Shore Dr #201301091: Corrective Action – Re-build wall, clear cut trees, re-establish slope, shoreline retaining wall, and shrub and plant growth to secure slope (dec date 01/29/14)**

WEO Daniel advised that the applicant has not yet received approval from First Light Power. **Secretary Fox moved to continue 18 North Lake Shore Drive, #201301091, to the next regularly scheduled meeting. Commissioner Finelli seconded the motion, and it carried unanimously.** It was noted that the decision date is January 29, 2014, and the next meeting is January 27, 2014. The applicant will likely request an extension or face a denial without prejudice. It was further noted that there are no enforcement issues at the site.

5. New Business:

- a. **Nomination & Election of Officers for the 2014 Calendar Year**

Secretary Fox moved to continue the current officer structure until the first meeting in February, 2014. Commissioner Finelli seconded the motion, and it carried unanimously.

8. Review Minutes of Previous Meetings: 12/09/13 – Secretary Fox moved to approve the Minutes of Monday, December 9, 2013 as submitted. Vice Chairman Miller seconded the motion, and it carried unanimously.

01/06/14 special- Secretary Fox moved to approve the Minutes of Monday, January 6, 2014 as submitted. Vice Chairman Miller seconded the motion, and it carried unanimously.

3. Wetlands Enforcement

- a. **Enforcement Officer's Report**
64 North Lake Shore Drive #201300317
20 Deerfield Road #201301082

WEO Daniel advised that the sites being followed by the monitors are in satisfactory condition.

1 High Ridge Rd. – WEO Daniel indicated that she spoke with Special Town Counsel P. Olsen regarding this matter. He will draft a document to file on the land records regarding the footing in the back of the house, and what will be involved in completing the process that will allow the Town to remove it. This matter will continue to be handled by Attorney Olsen. Upon inquiry from Vice Chairman Miller, WEO Daniel stated that at last check, the property is owned by a limited liability corporation. Dr. Zaky is serving a 31-month sentence in federal prison. WEO Daniel noted, however, that the neighbor's property is dry due to the actions taken by the neighbor and the restoration done by the Town.

64 No. Lakeshore Dr. – WEO Daniel continues to send citations and fines accruing at the rate of \$100 per day. First Light Power Company is also pursuing enforcement on this matter.

b. Site Inspection Reports

871 Federal Road

- **Letter from S. Hayden of the Northwest Conservation District dated 01/14/14**

See above.

PUBLIC HEARING – 7:15 PM

a. Still River Greenway #201400000: Phase II (PH close date: 02/25/14)

Secretary Fox opened the public hearing and introduced the members of the Commission. Secretary Fox then read the legal notice that was published in the News Times on January 9 and January 18, 2014. She noted that the application was received on January 6, 2014. She then reviewed the policies and procedures that govern public hearings.

Secretary Fox noted that there is no correspondence related to the application in the file.

J. Lenahan, Professional Engineer, Fuss & O’Neill, 56 Corey Rd., Trumbull, CT, was present. He advised the application relates to Phase II of the Still River Greenway. He reviewed the preliminary site walk that took place in 2008, and repeated the start and end points of the proposed Greenway. He explained that the trail was originally along the Still River; however, it was relocated to the current proposed areas. Additional past actions on the application include: in 2009, a public information meeting regarding the realignment; a wetlands assessment in 2010; the Phase I construction which was completed in 2010/2011; a second site walk in 2012 at which time it was determined that a vernal pool study be conducted. Mr. Lenahan pointed out Vernal Pool 5 (VP05) and the main vernal pool (VP01), and reviewed the current design. He referenced a Memorandum of Understanding regarding the flood plan certification and the bridge crossing, and indicated that the application is currently under review by the Army Corps of Engineers, and the Connecticut Department of Energy and Environmental Planning (DEEP). Mr. Lenahan summarized that the purpose of the Greenway is to provide recreational access for community.

J. Wilson, Professional Wetlands Scientist & Registered Soil Scientist, Fuss & O’Neill, was present. He indicated he was charged with delineating the wetlands, evaluating their functions and values, and conducting the vernal pool assessment. He referenced the Report previously submitted, and provided details regarding wetlands and their impact on compliance with the Army Corps and DEEP regulations. Mr. Wilson pointed out two large wetlands areas: in the north, Wetland 1-E; and an area south of that, Wetland 2-IJ. He indicated that both areas are controlled by groundwater recharge and surface water flow. With regard to Wetland 2-IJ, he advised that VP01 is located within it. Mr. Wilson pointed out that there is a large wetland area in the west that was not flagged where there is an existing informal trail.

Mr. Wilson indicated that the functions and values of the wetlands include: retention of flood waters and sediment, provision of nutrients, i.e., fruit producing trees and shrubs, production of organic material, and support of a wildlife habitat, specifically, two State-listed species: the wood turtle and the box turtle. Additionally, there is a recreational component that the proposed trail will facilitate.

Mr. Wilson reviewed the federal wetlands and vernal pools: VP05, VP01, and three clustered to the south: VP02, VP03 and 04. He advised that these areas were inspected in the Spring of 2012, at which time the water was low. However, he noted that breeding amphibians were present at the time. VP05 (also known as Wetland D) was “bone dry” at that time, but its status as a vernal pool was maintained. Mr. Wilson referenced a 2001 study by Calhoun & Clemens regarding vernal pools, which is referenced in State and federal regulations.

Mr. Wilson further discussed the following issues: threatened endangered species (per a study by New England Environmental), and their potential for restoration, those species being: the wood and the box turtles, as well as five species of vegetation. He referenced the Endangered Species report, which discusses the species' primary habitat and provision of protection, via banks, right of way corridors, adjacent wetlands, outcrops and fencing.

Vice Chairman Miller inquired of Mr. Wilson if the danger of invasives was investigated. Mr. Wilson explained that the control of invasives is a challenge, but the applicant has a plan to address the spread of these species.

Secretary Fox requested clarification of the presence of amphibian egg masses at VP01-04, and if an interdependency on animals within the four pools would follow, due to their close proximity. Mr. Wilson agreed that the interdependence and connectivity between the four pools is necessary to provide biodiversity. Secretary Fox inquired if the presence of activity by individuals and bikes would affect the animals' survival, and Mr. Wilson indicated their greatest risk is cars, which will not be present along the trail. Secretary Fox explained that this has not been her experience when at similar paths in the Harlem/Duchess and Wallkill Valley trails, noting that the bikes, scooters, and other apparatus utilized on those trails travel at a high rate of speed.

V. Chiaravallotti, Civil Engineer, Fuss and O'Neill, was present. He reviewed the design of the trail from its start point at 777 Federal Road. There was discussion regarding signage and the risk of graffiti, especially as it relates to endangering rare plants. There will be signs near the utility access. The materials utilized in the construction of the trail were reviewed. Mr. Chiaravallotti indicated that including the already-completed Phase I, the trail will consist of 8,800 feet of multi-use trail. There will be three crossings over intermittent water courses, made up of elevated boardwalks. The only direct disturbance to the wetlands is the piles for the boardwalks, which will allow passing of the intermittent water courses, and for the native species to go to their natural habitat. The board walks were designed to keep above the trail two feet above the 100-year flood elevation of the Still River. Additionally, the abutments will remain out of the flood way of the river.

Mr. Chiaravallotti indicated that the existing culvert near the Police Department is undergoing repairs to the outlet. The repairs will involve a small amount of fill to support trail the with masonry unit blocks above the culvert. After the connection with Phase I, the trail will head south on a paved trail to Arthur Harris Linear Park, with repairs being made to drain under Route 7. Mr. Chiaravallotti reviewed the location of rest areas and State wetlands near the Route 7 bridge. The 4,000 square feet of State wetland disturbance is included in the total 15,000 square feet of direct wetland impact.

Secretary Fox inquired if it was possible to make paths so that the native species will not have to cross the asphalt where there may be busy activity.

N. Tolmoff, High Ridge Rd., Brookfield, was present. She inquired if there would be spacing in the boardwalks that could get tires caught in them. Mr. Lenahan indicated that the timber boardwalk would run perpendicular.

With regard to Secretary Fox's question, Mr. Wilson advised there are alternatives for "critter crossings", further noting that a majority of the migration occurs at night. Mr. Lenahan suggested that possibilities include an amphibian tunnel and enticing plants, pointing out that a drawback is that predators are equally attracted to those things.

Mr. Lenahan reviewed the construction of the 160' crossing. He noted the concrete piers, and advised that the crossing will be delivered in three sections. Construction access will be via Route 7/Federal Road. The rest areas will also allow turnaround for users and maintenance vehicles, to reduce impact. Additionally, two foot stone shoulders have been removed to reduce impact.

Secretary Fox inquired regarding the timeline for work. Mr. Lenahan advised that the current schedule provides for finalizing the design by April, and advertising in June. Construction should start late summer through November. Mr. Lenahan then reviewed the sedimentation control and the availability of cut sheets to contractors, with procedures for handling encounters with native species. The first three months of construction will include clearing and grubbing. There will be approximately one mile of clearing. The bridge work will begin the following spring. Mr. Lenahan offered to add details to the specifications. Vice Chairman Miller inquired if funding could be interrupted during the process. Mr. Lenahan acknowledged that construction will be subject to weather, but indicated that some tasks can be moved around if weather interferes with other.

Mrs. Tolmoff inquired how long the process would take to complete, given the current scenario. Mr. Lenahan indicated it would likely take a year, noting that there is a northern section, and a southern section, and depending upon State review and funding, if all can be done or if portions will be done. Mr. Lenahan is seeking an approval of the entire project.

Upon inquiry from Chairman Vulcano, the material of bridge (structural seal) was discussed. He also inquired where the timber would come from, and Mr. Lenahan indicated it would be pressure treated with regulation/approved material. There was discussion regarding a specific material, cold tar pitch.

Mr. Wilson then added to the discussion regarding timing and seasonality of the work. He advised that the applicant will be sensitive to restrictions of season and animal migration periods by limiting the activity near the vernal pools, installing silt fencing, and conducting daily “sweeps” to advise construction workers of what to look for. Upon inquiry from Secretary Fox, Mr. Lenahan indicated that the amount of time the silt fence is up will not affect the animal population because it will only protect the construction area and perform erosion control functions.

Upon inquiry from Secretary Fox, Mr. Wilson indicated that the silt fence would not be removed until the site is stable, and in his opinion, the silt fence will not have any adverse impacts on the wetlands or the native species.

Mr. Wilson identified the following areas of enhancement and/or conservation:

- 1) Northern boardwalk crossing – where currently there is a perennial watercourse and the quality of the swale has deteriorated. For mitigation, the applicant will create a pool and weir system to allow water to cascade and dissipate, recreate this part as imperium area, and provide 3,500 square feet of wetland enhancement
- 2) The third boardwalk crossing, where there is runoff and groundwater seepage from Route 7. An area of 4,100 square feet will be excavated, seeded and planted with shrubs. Vice Chairman Miller inquired why anything would be done at all, and Mr. Lenahan advised that the Army Corps requires compensatory mitigation.
- 3) Vernal Pool 01, which will be extended and enlarged for a deeper pool area, with vegetated edges, of 2,200 square feet.

It was stated that invasive species removal will be mechanical and then chemical.

- 4) For preservation, the Mystery Acres parcel, where a minimum of two acres will be put into a conservation easement. This area is one of the primary habitat areas for the turtles.

WEO Daniel inquired regarding the rare grass referenced in the report. Mr. Wilson indicated it would be not be disturbed.

N. Tolmoff was present and spoke in favor of the application.

Mr. Wilson reviewed locations for signage that will identify and describe the habitat.

Mr. Lenahan advised that comments have been received from the Army Corps, DEEP, and Department of Transportation. There has been discussion with these agencies regarding adding conservation easements. The applicant intends to follow up on the comments and submit the final report for approval, proceed into development specifications, and advertise bids in June.

WEO Daniel inquired if there was a requirement for monitors within the other agencies approvals. Mr. Wilson advised that during construction, “sweeps” for endangered species during migration, training the construction staff to inspect for species, to have a professional wetland scientist on the site, and monitoring of the grading and installation of plants and topsoil in the mitigation areas. Additionally, there will be five-year post-construction monitoring for invasive species and measuring the success native species with a minimum of 75% native wetland species coverage; also to verify that the intended hydrology is operating, that willow species are coming in Mitigation Area 3, that the pool is present and functioning and that there are attachment sites for egg masses, and that vegetation is growing. Mr. Wilson advised that the report is required annually for the Army Corps, and the Town could be copied on the report.

Chairman Vulcano inquired about inspection after big rains. Mr. Lenahan advised that the standard 2002 guidelines will be utilized, as well as a full-time construction inspector. Chairman Vulcano requested that a report is generated from the inspection, noting if anything is found, and what the remedial action is. *Director of Parks and Recreation, D. DiPinto, was present*, and there was discussion regarding including the Municipal Building Committee in the communications.

Secretary Fox inquired who chooses the professional soil scientist. Chairman Vulcano indicated it should be someone who is working for the Town, noting that the contractor will pay the fee.

It was noted that Mrs. Tolmoff spoke in favor of the application (above). No one was present to speak in opposition.

Vice Chairman Miller moved to close the Public Hearing re: Still River Greenway #201400000: Phase II. Secretary Fox seconded the motion, and it carried unanimously.

6. Tabled Items: None.

7. Correspondence:

a. Minutes of Other Boards & Commissions: 12/05/13 Planning; 12/12/13, 01/09/14 Zoning; 01/06/14 Zoning Board of Appeals

b. Letter from Joan Locke to Board/Commission Chairman dated 12/27/13 Re: Board/Commission Vacancy Procedure

No discussion/no motions.

9. Informal Discussion: None.

10. Adjourn:

Vice Chairman Miller moved to adjourn the meeting at 8:53 p.m. Secretary Fox seconded the motion, and it carried unanimously.

*****Next regular meeting scheduled for January 27, 2014*****