

**DERBY INLAND
WETLANDS AGENCY
DERBY, CONNECTICUT 06418**

**Frederick J. Columbo, Jr. Chairman
68 Seymour Avenue
Derby, Connecticut 06418**

**Philip Marcucio
Paul Dinice, Jr.
Paul Padilla
David Barboza II
Roger Birtwell**

October 8, 2008
(Meeting Taped)

Minutes of Derby Inland Wetlands Agency meeting of Wednesday, October 8, 2008 at Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby. This meeting was called to order at 7:10 p.m. by Chairman Fred Columbo.

By roll call members present were Chairman Fred Columbo, Philip Marcucio, Paul Dinice, Jr., Paul Padilla, David Barboza and Roger Birtwell (8:20 p.m.). Michael Joyce from Milone & MacBroom was also present.

Additions, Deletions, Corrections to the Agenda:

A motion to add as Item 7(e) Landfill Property - Fran Finnucan Belleview Drive was made by Mr. Marcucio, seconded by Mr. Padilla and carried unanimously. Mr. Marcucio moved to add as Item 7(f) Sunrise Hill Estates, Orange. The motion was seconded by Mr. Padilla and carried unanimously.

Approval of Minutes

Mr. Dinice moved to approve the minutes of the August 13, 2008 meeting. The motion was seconded by Mr. Marcucio and carried unanimously.

Public Portion:

Dan Waleski, 21 Elm Street asked to have the opportunity to speak when other agenda items are discussed. Mr. Columbo stated that he would allow him to comment at that time.

7d. Lowe's Home Improvement Store, Derby Shopping Center, LLC: Approved Application #07021401 - update of reconstruction project at 500 New Haven Avenue, Lot #39, Tax Map #4-3.

Mr. Marcucio recused himself from hearing this item. John Plante, Langan Engineering submitted revised plans. He stated that one of the conditions of the original approved was about the flow of water from the rear of the parcel. There was a catchbasin which was to be tied into the system but after some field conditions were observed and discussions

there has been a change and that is what is being addressed tonight. Mr. Plante stated that water came off the hill into a swale and then into the pond. They have cut back the hill and have now provided two means in that area. There is a swale at the top of the rock cut that has a pipe in it that picks up anything coming from the hill. The idea is to try to avoid water coming over the top of the rock cut and that is collected and brought down into the rebuilt swale. At the base of the rock cut there is a drain that collects any water that bleeds out of the rock and brings it down into the swale going to the pond. All the footing drains around the building will be connected. Mr. Columbo asked if there will be any additional disturbance and Mr. Plante stated that there will be none.

Mr. Joyce stated that at the time of the original approval the layout of the drainage was not on the plans. He stated that when building permit plans were submitted there was a drainage layout of those plans. He stated that there was a pipe that they saw and did not know about. He stated that they spoke with the engineer about this which resulted in the plans that are here now. Mr. Columbo read into the record the memorandum dated 10/8/08 from Milone and MacBroom to Langan Engineering, Mr. Kopjanski and Mr. Columbo (copy attached).

Mr. Joyce stated one of the questions that came up was whether or not this was a change in regulated activity. The site is not complete at this time but some flow has been diverted as part of the construction activity. Mr. Joyce stated that there have been several meetings with the contractor, engineer, staff and neighboring property owners. Planning & Zoning has received an application for modification of the special exception.

Phil Marcucio, Jr., 480 New Haven Avenue stated that at the time of the original application it was noted that the flow of water into their pond would not be interrupted. He stated that there is no water now except from a pump in Two Mile Brook which was installed. He stated that they always had a flow of over 30 gallons a minute through there and it never ran dry. He asked what kind of reassurances they can have that it will continue like that. He stated that there has also been some other things done with regard to vegetation being cut and grading. Mr. Columbo stated that only wetlands issues should be discussed.

Mr. Marcucio, Jr. stated that there has been some talk about a well being dug. Mr. Plante stated that he knows that there have been meetings and a verbal agreement with neighbors regarding some provisions to address their concerns. He stated that he does not know the specifics of those discussions. Mr. Columbo stated that the Agency does not know of any agreements. Mr. Marcucio, Jr. stated that they are concerned that the project is going to be done and all the verbal agreements are not carried out. He stated that it was in the original discussions about the flow of water. Mr. Plante stated that this is an intermittent drainage swale that picks up water coming off the hill, through the rock. That has been disturbed and is not connected up yet. He stated that he knows that there has been a number of discussions with the contractor and the neighbors about this. Mr. Joyce stated that during construction Konover approached the Marcucios to provide a temporary pump to pump water back up to the pond area on their property. This was a

was done and the staff did not know about this. Mr. Marcucio stated that the pond has never gone dry and now even during rainstorms there is no water. He stated that their concern is that they have something in writing that the pond will resume its natural flow of water. Mr. Columbo asked about the side agreement being made will be suitable for the business. Mr. Marcucio, Jr. stated that if they can get enough water out of the well that would be fine, but with the nature of wells you don't know until you start going down.

Mr. Dinice asked Mr. Joyce asked if he felt that this will provide adequate flow. Mr. Joyce stated that their review of the plans has been that if there is a source within the proximity of the footing drains and the underdrains shown on the plans it should provide a conveyance of water. He stated that we do not know what will happen with the blasting work. Mr. Dinice stated that the best thing would be to get the drainage work done and see if it works. Mr. Plante stated that the original approval included a handwritten condition which was that the plans shall be revised to show pipe to connect drainage from western portion of the site to the property. He stated that the pipes are collecting from the western portion of the site into the reconstructed swale and bringing it over to the pump. Mr. Joyce stated that the record of the public hearing includes a statement that there would be no adverse effect to the flow of water. He stated that there is nothing in the record of what that is suppose to be. Mr. Dinice asked when the work will be completed and Mr. Plante stated that the work is ongoing and blasting should be completed next week. He stated that the project finish date is early December.

Mr. Marcucio, Jr. stated that they have been irrigating out of the pond for ten years and have never ran it dry and never had any problems. Mr. Plante stated that he does not know what the flow was in the past. Mr. Marcucio stated that the State knows that they are using water but they do not require filing unless it was over 50,000 gallons of water a day, and they have been under that in their water useage.

Mr. Columbo stated that he received a call from Peter Spangenberg, DEP regarding this project and he indicated that this Agency has the right to make the decision on it.

Mr. Columbo stated that they have not completed the agreement that may solve this with the well. If we knew that this was already agreed upon that would have a major impact on the decision. Mr. Joyce stated that a meeting was held last week with Lowe's, Mr. Marcucio and staff and there was discussions about the same issues that would address some of these concerns. He stated that the original plans did show the watercourse being impacted during construction. The soil scientist identified it as an intermittent watercourse. Mr. Joyce also stated that if a well is part of the agreement the location of that may require an Inland-Wetland application.

Mr. Marcucio, Jr. stated that they have a lot of documentation of things that have happened with this project. Mr. Joyce stated that the original approval included a bond for soil and erosion controls as well as a Planning & Zoning bond and those have not been released.

Mr. Columbo stated that they want to expedite this as quickly as possible as long as things are done correctly. Mr. Joyce stated that the system has the potential to do what it is suppose to do but the work is not complete at this time. There is no flow numbers to compare it to. Mr. Dinice stated that there is nothing concrete, but there was a flow going in and Lowe's stated that they would maintain the flow. If the work was complete, we would be able to see if it works. Mr. Plante stated that design will interrupt any water coming out of the rock, similar to what it is today, but there was no measurement. Mr. Joyce stated there was a statement on the record that there would be no adverse impact to the flow of the brook, but there is no information to measure that.

Mr. Joyce stated that the members have heard the dialogue tonight and allow discussion on the matter. The Commission has the information and the question is whether or not you feel that there should be an application or if it still within the guidelines of the original application.

Mr. Marcucio, Jr. stated that their irrigation system was designed there was 30 to 40 gallons a minute and it never ran dry.

Mr. Columbo stated that the Agency needs to decide if an application is necessary. Mr. Dinice stated that he would like to have more information before deciding or voting. Mr. Joyce stated that there has been some meetings with the property owners and Lowe's that the City did not know about. There was also revisions made to the plans that the City did not get until now. Mr. Columbo stated that if we do not have enough information this evening we can request Lowe's to continue their ongoing work on the project. Mr. Joyce stated that they are not in violation of anything at this point of time. Mr. Columbo stated that they are working in good faith to do what they are suppose to do under the approval. Things happened and not sure what will occur. If the agreements were in place that would help in the decision. Mr. Marcucio, Jr. stated that they cannot get anything in writing of what will be done. Mr. Plante stated that there have been discussions and possibly agreements made but he does not know the details. He stated that he was told that there was an offer was agreement upon this afternoon of what will be done. Mr. Joyce stated that Mr. Kopjanski indicated that there was a meeting regarding the resolution of the problem but he has not been able to get an answer from him.

Mr. Columbo stated that the Agency is being asked to make a decision on something that we cannot guarantee with regard to the intermittent watercourse. Mr. Dinice stated that the question is whether there will be any flow out of their. Lowe's represented that flow would be captured and go into the pond. There were representations made that flow would continue to the pond. The difficult thing is that we do not know if it will work.

Mr. Joyce stated that the Planning & Zoning Commission is scheduled to meet on their application on October 21st and they cannot make a decision until Wetlands does.

Mr. Dinice moved to schedule a special meeting for 7:00 p.m. on Monday, October 20, 2008 on the Lowe's matter. The motion was seconded by Mr. Padilla and carried unanimously.

Dan Waleski, 21 Elm Street stated that the topography is very irregular and he was concerned that any change will add to the runoff that will be going into Two Mile Brook. He felt that the brook is becoming overburdened.

7a. Engineering Fees: Milone & MacBroom, Inc. for the City of Derby: Statements of August 12, 2008 and September 16, 2008.

A motion to pay bills from Milone & MacBroom, Inc. was made by Mr. Marcucio, seconded by Mr. Padilla and carried unanimously.

7b. Post/tags for non-encroachment lines.

Mr. Columbo distributed materials concerning the post/tags for non-encroachment lines. He stated that there are two properties on Academy Hill and Mr. Zaleha's property on Homestead Avenue where these will be used. Mr. Dinice stated that almost every community uses these and they are relatively inexpensive. He stated that the Agency can be flexible about how these are used.

7c St. Peter's Cemetery Culvert Replacement on Orange/Derby Line. St. Peters Cemetery Route 34, Derby, CT

Mr. Columbo stated that a letter was received from Paul Dinice, ZEO for the Town of Orange regarding this project on the Orange/Derby town line. The letter addresses replacement/repair to the stone archway culvert. Mr. Joyce stated that a pre-construction meeting was held regarding options to the culvert work. Mr. Dinice stated that they will be appearing before the Orange Inland Wetlands at the end of the month. Mr. Joyce stated that he will be in contact with officials from Orange.

Dan Waleski, 21 Elm Street, stated that he looked at this site and major changes have been made in the area of the culvert. He stated that there is heavy erosion on the Derby side and the Agency should be concerned about the impact to Two Mile Brook.

7e. Fran Finnucan Belleview Drive

Mr. Joyce stated that he located old maps showing the old landfill area. He stated that when the landfill was capped and the transfer station started there were concrete galleys installed and they still exist. He had found an as-built of the drainage system. He stated that there are several catchbasins that are too high and the galleys system is blocked. A meeting is scheduled with Ron Culmo and Atty. J. Coppola regarding this matter.

7f. Sunrise Hill Estates/Hine Farm, Orange.

Mr. Joyce stated that during some storms there was a discoloration to the water in Two Mile Brook due to activities occurring at the Sunrise Hill Estates project. Mr. Dinice stated that there is a temporary detention pond and the final detention pond that will service the development. There was some stabilization in the temporary pond and when it got down to the lower pond that pond was not stabilized. They are working on it and they will be installing an additional line of haybales. He stated that they are on top of the situation.

A motion to adjourn was made by Mr. Padilla, seconded by Mr. Marcucio and carried unanimously. The meeting was adjourned at 8:55 p.m.

ATTEST:

Maryanne DeTullio

These minutes are subject to the Agency's approval at their next scheduled meeting.