

Town of East Haven, CT  
Inland Wetland and Watercourse Commission  
Minutes  
Oct 8, 2014 7PM

Chairman Richard Poulton called the meeting to order at 7:12PM

1. Roll Call- Ronald Ferraiolo, Gerry Jaffe, Richard Poulton and Ronald Andrade were in attendance. Also in attendance were Commission Attorney Al Zullo and Town Engineer Kevin White.

Mr. Poulton asked for a motion for Mr. Andrade to move from alternate commissioner to commissioner for the purpose of this meeting. A motion was made by Mr. Jaffe and seconded by Mr. Ferraiolo. All were in favor-motion carries.

2. Approval of Minutes from April 9, 2014

A motion was made by Mr. Jaffe and seconded by Mr. Ferraiolo to approve the minutes from the April 9, 2014 meeting. All were in favor, motions carries.

3. Old Business-None

4. New Business-None

5. Enforcement:

14-01 95 Warner Rd

Violation stems from June 18<sup>th</sup> 2014 rain event. Copies of all handouts and photos were given to each commissioner and the property owner and their attorney. On June 19<sup>th</sup>, sedimentation and runoff from the property were observed. This ran down the road and into the watercourse. Photos 1, 2, 3 and 4 show this damage. The Town Engineer had issued an NOV and stop work order on June 24<sup>th</sup>. Shortly after that, the Town Engineer and Mr. Poulton went by and the homeowners were laying top soil. They were advised the contractor to stop work and advised them about correcting the sedimentation barriers. On July 9<sup>th</sup>, the Town Engineer said that everything looked good and removed the stop work order. Mr. White stated that the top sold had been laid and the stop work order was for all work. When he stated they could work again, it was for the inside work. The homeowners were advised to stabilize the top soil and properly install the sedimentation and erosion control barriers.

Rain on July 9<sup>th</sup> eroded the topsoil into the street. The road was unsafe, and mud went into the watercourse. Public Works spent two days

cleaning the road. The sedimentation barriers were not re-established or properly installed. Photo 8 shows the barriers still down 4-5 days after the rain event. On July 14<sup>th</sup> the barriers were still not properly installed.

On July 15<sup>th</sup>, there was another rain event, which eroded the property and caused the road to fill with mud. Photos 9 and 10 show mud. The homeowner's contractor came to clean the road. On July 22<sup>nd</sup>, another rain happened, which resulted in more run off from the property. Mr. Poulton met with owner of 92 Warner Rd. This sediment went to the neighbor's pond, causing the pond to fill with sediment. This sediment is causing the aquatic and plant life in the pond to die. The barriers were still not properly installed. Photos 11, 12, 13, and 16 show the pond and sand bars created by run-off. An inspection was done on Aug. 11; photos 17 and 18 show the barriers are still not properly installed or maintained. A 2 day rain event on Aug 12 and 13<sup>th</sup> caused runoff to the watercourse again. Barriers still not properly installed or maintained. Photos 19-22 show this run-off. This is 6 individual and distinct violations. Commission needs to determine if each incident is individual and if a citation is in order. A 2/3 vote is need to do that. The property owner can then admit liability, pay the fine and this will be done. Or they have the right to appeal. Mr. Jaffe inquired what happens to the other property and the damage that that property incurred. Mr. Poulton responded with that does not fall under the jurisdiction of this commission.

Timothy Lee, Attorney, on behalf of property owners Mr. and Mrs. Bracale, stated that they were here tonight regarding the NOV dated June 24<sup>th</sup>. In letter the homeowners received stated they must come before the commission for the NOV dated June 24<sup>th</sup>. Due to unforeseen circumstances, the meeting was postponed until tonight. He stated that remedies had been installed by the home owners contractor and the Town Engineer had gone to the property in early July. They had the letter dated July 8<sup>th</sup> from Mr. Poulton about inspections, stating that barriers were in place and the Stop Work order had been rescinded. They took that to mean they could continue work. There was confusion about whether this meant indoor or outdoor work. The applicant/homeowner could determine that the letter meant he could continue outside work. In response to the NOV, he feels the homeowner complied. The issues being discussed tonight occurred after the first issues were resolved and should not be before the commission tonight. The issues have been corrected. The homeowners have moved in, the site is stabilized and grass planted and the sedimentation and erosion controls will be maintained through the winter.

Mr. Ferraiolo questioned who would correct the issues with the sand bar and damage to pond. Mr. Poulton replied that that very well could become a civil issue between the homeowners.

Mr. White had a bill for \$4560, the cost to call in Public Works to clean up the sediment on the road. He submitted the bill to the commission for the consideration.

Attorney Lee noted state statute 22A-42G that there were no violations as of that week in July; therefore the homeowners should not be before this commission tonight. Mr. Poulton referenced town ordinance 14-72 regarding citation and NOV procedures. Any person authorized by the mayor can bring a citation any time with 12 months of the violation. Attorney Zullo noted 2 fine options, deal with a continuing violation or by 2/3<sup>rd</sup> vote issue an NOV for new rain events. Vote to issue citations and NOV on other 5 rain events. Continue with 1 motion noting 5 separate citations with hearing. His recommendation was to do them as separate events.. Mr. Lee reiterated that at that time they were not in violation of anything at that time and therefore not subject to any fines.

Mr. Poulton presented a motion "That on for rain event of June 19<sup>th</sup>, NOV issued on June 24<sup>th</sup>, as the results of the failure and improperly installed sedimentation and erosion control methods on the property of 95 Warner Rd, East Haven, property owners or their agents acting on their behalf, did cause or allowed to occur sedimentation to flow off said property and enter a wetland and/or watercourse area, which directly or indirectly impacted the physical characteristics and aquatic environmental habitat of such wetland and watercourse located on the property of 92 Warner Rd. East Haven. Furthermore, the Commission instructs the agency's attorney to proceed with the issuance of a citation under the authority of Section 14.4 (b) of the Regulations and as described in Town Ordinance, Section 14-71D-2 and impose the maximum fine as allowed within this ordinance, \$1000". Motion was seconded by Mr. Andrade. All were in favor, motion carries.

Mr. Poulton presented a motion "That on July 9<sup>th</sup>, July 15<sup>th</sup>, August 12<sup>th</sup> and August 13<sup>th</sup>, separate and distinct from each other, as the results of the failure and improperly installed sedimentation and erosion control methods on the property of 95 Warner Rd, East Haven, property owners or their agents acting on their behalf, did cause or allowed to occur sedimentation to flow off said property and enter a wetland and/or watercourse area, which directly or indirectly impacted the physical characteristics and aquatic environmental habitat of such wetland and watercourse located on the property of 92 Warner Rd. East Haven. Furthermore, the Commission instructs the agency's Wetlands Enforcement Officer to proceed with the issuance of a citation under the authority of Section 14.4 (b) of the Regulations and as described in Town Ordinance, Section 14-71D-2 and impose the maximum fine as allowed within this ordinance, \$1000.00 per incident. Motion was seconded by Mr. Jaffe. All were in favor, motion carries.

Mr. Poulton stated that the homeowners had the right to appeal this fine.

6. Other Business

Mr. Poulton wanted it to go on record that the homeowners at 3 Monte Circle had done a really good job of fixing the violations and stabilizing the bank on their property.

Mr. White requested that an agenda item be add to request reimbursement of cost for ink and photos incurred by Mr. Poulton. A motion was made by Mr. Andrade to add the agenda item. Seconded by Mr. Ferraiolo. All were in favor, motion carries. Mr. Jaffe, made a motion to reimburse Mr. Poulton the amount of \$122 for costs incurred for printing photos. Seconded by Mr. Ferraiolo.

7. Communications. -None

8. Comments from members-None

A motion was made at 7:50 by Mr. Jaffe to adjourn, Seconded by Mr. Andrade. All were in favor.

Respectfully submitted,

Kristen Vineyard  
Clerk