

**COVENTRY INLAND WETLANDS AGENCY
MINUTES
SPECIAL MEETING OF WEDNESDAY, MARCH 6, 2019**

1. CALL TO ORDER:

By: Woolf

Time: 7:03 p.m.

Place: Public Works Break Room

2. ROLL CALL:

| | | PRESENT | ABSENT |
|--------------------|-----------------------------|---------------------------|--------|
| REGULAR MEMBERS: | Martin Briggs | | X |
| | Lori Mathieu, Chairperson | X arrived at 7:07 p.m. | |
| | Patricia Laramee | | X |
| | Sam Norman, Treasurer | X | |
| | Thomas Woolf, Vice Chairman | X | |
| ALTERNATE MEMBERS: | Mike Powers | X | |
| | Open | | X |
| STAFF: | Todd Penney, Wetlands Agent | X | |

3. AUDIENCE OF CITIZENS:

None

4. OLD BUSINESS:

None

5. NEW BUSINESS:

A. 19-03W: Proposed Text Amendments to Inland Wetlands and Watercourses Regulations for the Town of Coventry.

Attorney Ken Slater, an environmental wetlands lawyer with Halloran and Sage, was present. Attorney Slater represented the Town on the appeal of a decision for a Main Street property.

Staff has submitted this application to cover text amendments to the Town's regulations resulting from Connecticut statute changes and the model regulations from DEEP since 2007.

A question from IWA was raised at a previous meeting about an IWA permit being required if a private citizen wants to apply pesticides on or near a watercourse. Slater was finally able to track down an answer from DEEP. That is, if the DEEP has granted a permit that preempts the local ordinance. The presumption is that the Commissioner has made the determination that this will not harm the waterbody. Attorney Slater's recommendation is that IWA not require additional permits once a DEEP permit is granted.

Mathieu's concern is that some of these applications take place year after year, resulting in the endless addition of chemicals to waterbodies, without a dialog taking place with the applicators as to the long-term plan and what the downstream effects may be. Is the DEEP looking at the entire watershed to see what water issues are going on? Perhaps the DEEP is simply rubber stamping the yearly reapplication that began years ago. Slater feels that asking the applicators to meet with the IWA about long term plans would be legally defensible while not requiring a local permit. Dr. Kortman oversees the application of chemicals to the lake for state funded projects. Staff can send a letter to applicators, such as those for the Kenyon Falls pond, asking them to appear before the IWA to describe what is to be done and the long-term plan.

Woolf feels there ought to be some logic behind why the application is being done, how effective the treatment may be, and for how long will the applications continue. Is this a unique problem to Kenyon Falls pond or it is going to spread?

The proposed text amendments were discussed.

- Page 4 down to the new item T – IWA questioned the removal of chemicals, herbicides, and pesticides. Slater stated removing this duplicative text from the work substances aligns with the state statute. If IWA wants to leave these words in the regulations, he does not feel it would be in violation.
- Page 6 – IWA questioned why the last part of the wetlands definition is being removed. Slater indicated this is straight out of the language in the statute. This is identical in the wetlands act. He recommends following this definition exactly.
- Page 7 b – The proposed language change is taking the statute verbatim. This was intended to grandfather certain things before the regulations came about. He would be shocked if you ever deal with this section.
- Dry hydrant – The grey area remains regarding the maintenance of these as being as of right as no language has been added.
- Page 9, section 6 – This basically gives the IWA the authority to make a determination if a permit is required or if the activity is an as of right. This section was adopted so a person proposing an activity s/he feels is as of right must come before the IWA for them to make the determination. Mathieu asked if IWA can have jurisdiction over such activities as those proposed by CT Water? Slater replied that language suggests the damming, ponding, and the facilities for the removal of water are under the jurisdiction of the State. Water distribution lines would not fall under the wetlands act, but there may be a reference to them elsewhere. The statute is written with the intent in theory that the activity will be closely regulated by the State authority. Oversight or review may be true at the beginning of a project, but may not hold for maintenance activities. Case law and Supreme Court decisions support the State's authority. Public utilities are regulated by PURA. Therefore, for non-PURA entities,

such as private water companies, this does not hold true. This language will remain unchanged.

- Page 10 – Mr. Slater related that this language deals with a case where the applicant’s agent and a neighbor’s expert, who did not want the land developed near his home, were in conflict. The feasible and prudent alternatives considered must be included with the plans. This shows that someone has demonstrated that other alternatives were considered.
- Page 14 – Deals with certified mail return receipt. You can now get a certified document from the USPS showing that the necessary letters were mailed and alleviates the issue of not having a full record of return receipts. This language will be included.
- Page 16, Section 11.2 - Deals with statute text changes to clarify the language.
- Page 17, Section 11.6 – This language lines up effective dates with PZC approval dates, if a PZC permit is required. If a PZC approval is not needed, a wetlands permit is valid for not less than two years or more than five years.
- Page 19 – Allows the IWA to impose fines if there is an ordinance. Coventry does not have such an ordinance. However, the language can remain should Coventry adopt a fines ordinance.

The IWA accepts the application and the public hearing will be set for April 24, 2019. Staff and Slater will discuss the wording of the legal notice. It is suggested that the general public be notified of the text changes.

B. Permitted As of Right Determination; CT Water Company – Water Main Replacement at Ash Brook at Brookside Lane.

Staff reminded the IWA that this matter was included during the discussion with Attorney Slater.

Shawn Smith, Project Engineer with CT Water, and Victor, from VMS, were present.

Mr. Smith indicated that 14,000 linear feet of water main needs to be replaced with a 6” line to service the Northfield development. Ash Brook will be crossed at one point. The pipe will run perpendicular to the stream. A coffer dam to carry the stream will be constructed temporarily during the laying of the new pipe from Shady Lane to Brookside Lane. The soil scientist has flagged the wetlands, even showing the 75’ buffer zone. The disturbed area will be 130’ long x 10’ wide, or .03 acres. CT Water is presenting this work at a courtesy and notification to the Town. They welcome a review, suggestions, comments, or concerns about the work. The work is targeted for the summer months when the brook tends to have lower flow. It is anticipated that the work will take three to four days. CT Water and VMS expect to be in the area on this project all summer long allowing them to leap frog to the work in the brook during a good weather window.

Staff added that CT Water has a policy to present to IWAs for input because they do understand that there is a connection with the local authority. Staff has reviewed the plan which addresses his comments about erosion and sediment control. A couple of water bars may be necessary. The pipe and other material will be brought down the slope with track equipment and off-road trucks. There will not be removal of a tremendous amount of material. Ash Brook connects to the Hop River. This is a fairly pristine area. CT Water is being highly communicative with Staff. The disturbed area will be restore immediately after the work is completed. Staff, CT

Water, and VMS will communicate. Staff will be involved with oversight of the entire project as roadwork will be necessary as well.

C. Permitted As of Right Determination; Hytone Farms – Driveway Culvert Repair & Surface Gravel. Swamp Road.

Staff received a call from Greg of Hytone Farm, owner of the cornfield and operator of a dairy farm. There is access to the corn field for farm equipment at the southwest corner of the field off of Swamp Road. Hytone Farms consists of 72 acres with a neighbor owning an additional 72 acres. The existing farm driveway is gravel and has a culvert underneath it. The outlet of the culvert can be viewed, but the inlet cannot be seen because it is sedimented in. Greg commented that there are two pipes in the ditch. One pulls water running off from the field. The Town put in a ditch alongside the road and culvert under the driveway for roadway runoff. Staff continued that there is evidence of scouring across the driveway because water cannot get into the pipe. There is a wetlands on the south side of the driveway where the water eventually runs in to.

VMS approached Hytone Farms about using an open area of the field for equipment while they are working on the CT Water main for the Northfield development. Hytone Farms agreed with the condition that the culvert issue is corrected by VMS.

VMS has agreed to be in coordination with Staff when the pipe is removed and re-installed. Intermediate rip rap and a plunge pool will be constructed on the inlet and outlet sides of the pipe. This activity will happen soon.

D. 19-04W; Possible As of Right Activity; Matt Cordner Applicant; Todd Henderson Owner; Proposed Activity: Phragmites Management and Sand Installation at 311 Woodland Road.

Todd Henderson, 311 Woodland Road, and Matt Cordner, 317 Woodland Road and owner of Andover Landscaping, were present. They have met with Staff on Woodland Road on the north side of the Lake at the cul-de-sac.

Cordner described the area that has been overtaken by phragmites. There is an assumption of where the defined water line should be. By distributing Town aerials beginning from 2002 and ending with a Google maps photo from May 2018, IWA can be seen the progression of the invasive into the water. It is roughly 32' out from the natural shoreline.

Staff commented that a couple of options have been discussed to eradicate or control the phragmites. You can see from the aerials that is an intermittent stream that runs from the wetlands at the rear of the Police Station to the Lake. There is also a catch basin and sediment structure on Woodland Road that runs off and down here. Leaves and debris have built up at the end of the stream. The intermittent watercourse runs approximately 250 days per year. There is a school of thought that the jetty is hampering the flow through the area allowing the capturing and settling of the fines. The Henderson's would like to remove the phragmites and put sand in its place. However, Mr. Henderson the main goal is to remove the invasives; they are not really looking to create a beach. The options to control or eradicate the phragmites is to cut it all back, remove and dispose of properly and then determine what is there for a root mass. The root mass could then be removed or leave it in place with poly and sand placed on top.

Norman commented that he is sympathetic to the owner about the invasive plant life, but the IWA has been hesitant about introducing more sand into the Lake.

Cordner pointed out the defined water line and a row of boulders. This is where the limit of clearing would be. Wetland plantings that will stay low could be introduced. The applicant would like permission to remove the phragmites and come back to determine what can be done in interest of the Lake's health.

Cordner could excavate the root mass pulling in back and covering it with thick mulch and adding sand on top of that. Staff added that these root masses are pretty stable. If it is stable as thought the phragmites could be cut back, the root mass left in place, and then put poly on top of it. His question was – Do you then cover the poly with something that could flush into the lake? Any work would be done during the low-level period of the lake which has become difficult due to the nature of the new lake gate. His concern is that trying to excavate the root mass may spread spores contributing to a further spread of the invasive. It may be better to kill this tough plant in place. That would involve the cutting of the stalks and pasting the remaining stem with an herbicide.

Mathieu commented that she is okay with targeted applications of herbicide. Without treatment the invasive could spread to fifteen other properties. She agrees that excavating the root mass could distribute spores into the water.

Norman has seen that the use of poly does not always work in killing the phragmites. Cordner commented that the owner would like to recapture the natural lake front on his property. If the root mass is not excavating that is not reclaiming the area. The owner and agent have no problem putting in the proper controls in order to recapture the natural shoreline.

IWA feels this is a large area on which to be spreading Round-up. Will Staff contact the North Conservation District or Dr. Kortman for consulting advice on the matter? Staff replied there is a small budget available for consulting fees. He will get an opinion from Dr. Kortman.

Staff advised the applicant that daily occupancy of the property and more diligence in controlling the plant is needed. New shoots will have to be removed frequently.

The application is accepted and will be on next month's agenda. Staff will contact Dr. Kortman for input. Staff will require the appropriate controls be used, such as a turbidity curtain to grab any sediment from flowing away. The control of the invasive will then be an as of right maintenance activity.

Mathieu departed the meeting at 8:42 p.m.

6. ADOPTION OF MINUTES:

A. January 23, 2019

Postponed until the next meeting.

7. DISCUSSION ITEMS:

A. Lewis Hill Road/Boston Turnpike On-site Pond/Dam Maintenance

Postponed until the next meeting.

B. Solitude Aquatic Pesticide Permit Application – Kenyon Falls Pond

This is another matter mentioned during the discussion with Slater. Staff will write a letter to the Kenyon Falls owner requesting details on the long-term plan of treating the pond.

8. CORRESPONDENCE:

A. Summary of Consortium of Land Use Agencies

Staff distributed a summary document.

9. ADJOURNMENT:

Motion: To adjourn the meeting at 8:45 p.m.

By: Powers

Seconded: Norman

Voting:

For: Powers, Norman, Woolf

Against: None

Abstain: None

Respectfully Submitted,

Yvonne B. Filip

Yvonne B. Filip, IWA Clerk

PLEASE NOTE: The minutes are not official until approved by the Inland Wetland Agency at the next Agency meeting. Please see the next Agency meeting minutes for approval or changes to these minutes.