Inland Wetlands Commission

MINUTES

Regular Meeting

May 11, 2016

7:00 p.m. Main Level Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. Davis, Mr. LaMuniere,

 Mr. Papsin, Mr. Wadelton

ALTERNATE ABSENT: Mr. McCormack

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Neff

 Mr. Bedini called the meeting to order at 7:00 p.m. and seated Members Bedini, Davis, LaMuniere, Papsin, and Wadelton.

MOTION: To add the following subsequent business to

the Agenda: VIII. Communications; B. Straw Man,

 LLC.,/135 Bee Brook Road/2 Letters dated 5/11/16.

 By Mr. Wadelton, seconded by Mr. Papsin, passed 5-0.

Consideration of the Minutes

MOTION: To accept the 4/27/16 Regular Meeting minutes

 as written. By Mr. Davis, seconded by Mr. Papsin,

 and passed 5-0.

MOTION: To accept the 4/21/16 Special Meeting minutes

 as written. By Mr. LaMuniere, seconded by Mr.

 Davis, and passed 5-0.

Pending Applications

Town of Washington/108 New Milford Turnpike/#IW-16-11/Application of Herbicide: It was noted that information on the DEEP form had to be corrected and that the applicant had requested an extension of up to 65 days if necessary.

MOTION: To approve the request for an extension submitted

 by Mr. Bernard for Application #IW-16-11. By Mr.

 Wadelton, seconded by Mr. Papsin, passed 5-0.

Fornasier/57 Findley Road/#IW-16-15/Replace Driveway Culvert: Mr. Neff, engineer, stated there had been no changes to the plan presented at the last meeting. Mr. LaMuniere noted the application was complete and there had been no questions raised at the last meeting.

MOTION: To approve Application #IW-16-15 submitted by

 Ms. Fornasier to replace the driveway culvert

 at 57 Findley Road per the plan, “Driveway Culvert

 Replacement Plan,” by Mr. Neff, dated 4/14/16; the

 permit shall be valid for two years and is subject

 to the following conditions:

1. that the Land Use Office be notified at least 48

hours prior to the commencement of work so the

Wetlands Enforcement Officer can inspect and

approve the erosion control measures,

1. that the property owner give the contractor copies

of both the motion of approval and approved plans

prior to the commencement of work, and

1. any changes to the plans as approved must be

submitted immediately to the Commission for review;

 in considering this application, the Commission has

 determined that no reasonable and prudent alternatives

 exist, and believes that there is no reasonable

 probability of significant adverse impact on any

 wetlands or watercourses.

 By Mr. LaMuniere, seconded by Mr. Davis, passed 5-0.

Enforcement

 Mr. Ajello briefly reviewed his activity report dated 5/10/16. Regarding Steep Rock Association’s work at 118 Bee Brook Road, Mr. Ajello explained the rain garden was 4 feet deep because it would be filled with 2 ft. of stone, covered by a permeable soil mixture, and the edges would taper to the level of the parking lot. Mr. Wadelton noted that the stone layer would absorb a lot of water so that no runoff from the parking lot would flow into the river.

Communications

 Copies of The Habitat, Spring 2016 were circulated and information about the 2016 Municipal Inland Wetlands Agency Comprehensive Training Program was noted.

Straw Man, LLC./135 Bee Brook Road/Permit #IW-09-44/Requests for Revisions of Conditions of Approval: Mr. Wadelton recused himself. Mr. Bedini noted two requests dated 5/11/16 regarding revisions to the original conditions of approval had been submitted by Mrs. Canning and he recommended the Commission consider them one at a time.

1. Request to Reduce the Bond from $20,000 to $1000: Mr. Bedini noted that at the last meeting, the Commission had advised Mrs. Canning that the bond would not be refunded until the present permit was cancelled, and she had told the Commission that she would not cancel the original permit until a new permit for a culvert crossing had been approved. Mr. Davis said the matter was clear; the permit holder had decided not to construct the permanent bridge, but had not restored the site to its original condition, which was required no matter what the circumstances. He added that if any of the bond was to be returned, the terms of the original permit had to be followed. Mr. Papsin agreed. Mr. LaMuniere said it made sense to allow the temporary bridge to remain in place during the culvert construction and thought the engineering for the culvert would not be as complex as for the construction of the permanent bridge. Mr. Davis said the bond was also to cover any mistakes made. Mr. Bedini noted there would be less disturbance if the temporary bridge remained in place while the culvert was constructed. Mr. Ajello asked why the bond for the culvert would be less than for the bridge and said the bond should not be returned until the temporary bridge was gone. He suggested the bond for the bridge could be “rolled over” for the culvert, but Mr. Davis and Mr. Bedini said that legally the two bonds must be separate. Mr. Ajello noted the temporary bridge must be removed by 9/30/16. Mr. Bedini stated it was the consensus that the bond must remain in place until the existing permit is cancelled and he asked Mrs. Hill to send a letter to Mrs. Canning to inform her.
2. Request to Revise the Limitation of the Work Period from June 30 through September 30 to Limitation to Dry Periods: Mr. Bedini noted that the Commission had decided at previous meetings that defining the dry time of year as the period from 6/30 through 9/30 does not work and so he thought the request was reasonable. Mr. Davis thought if this was changed, then every previous permittee with work limited to those dates could come back to request a similar revision. Mr. Bedini said that would be OK; that work should be dependent on weather conditions. Mr. LaMuniere read the DEEP recommended modification to the Inland Wetlands and Watercourses Act, PA 12-151. Mr. Davis thought language referring generally to weather conditions was not specific enough, that there should be dates and/or criteria to define the permitted work period or else it would be a tremendous burden on the WEO determine whether it was a dry time when work could progress. Mr. Ajello said there was nothing wrong with specifying dates that have typically been considered to be the dry time of year, adding that work should stop by 9/30 so that planting can be done in time to stabilize disturbed areas before November. Mr. Wadelton was reseated to discuss the regulation in general, but not how it applied to this specific request. Mr. LaMuniere again read from PA 12-151, which states that commissions may include restrictions as to the times of year in which a regulated activity may be conducted provided the agency or its agent has determined that such restrictions are necessary to carry out the policies of the Commission. These policies, he said, ensure there will be no damage to wetlands or watercourses. Mr. Wadelton explained the Commission must review a specific application and then decide whether the work should be restricted; and responded to Mr. Ajello that arbitrary restrictions were no longer allowed. Mr. Davis asked then, how could the Commission allow for deviations from the norm. Mr. LaMuniere and Mr. Bedini answered that there is no norm. Mr. Davis thought the regulation should include specific criteria regarding weather conditions under which work would be permitted. Mr. Bedini suggested there could be applications where it would not matter whether the work was done during the wet or dry season. He also noted the Inland Wetlands Commission does not set precedents; that each determination is made for a specific application. Mr. Wadelton recused himself. Mr. Ajello again stated that 9/30 was a reasonable date to stop work to ensure disturbed areas would be vegetated before November and added that the Commission should be able to regulate when work may be done. Mr. LaMuniere responded that the Commission could not make specific conditions unless they are tied to specific negative impacts. Mr. Bedini thought that state directives and rules should be followed. Mr. Papsin recommended the 9/30 stop date remain and no revisions to the approval be made until there was a new application. Mr. LaMuniere questioned why Mrs. Canning would request the modification of the old permit when she had stated that she was not going to complete the work under that permit. Mr. Bedini agreed that the only matter now before the Commission was the permit for the permanent and temporary bridges. He thought there was no point in granting the requested revisions because she no longer planned to build the bridge and said the Commission would refer to PA 12-151 if the timing of activities was an issue with her future application. Mr. Davis again stated that the bond could not be returned, even if the original bridge permit was cancelled, unless the temporary bridge was removed and the remediation of the area was complete. That was the consensus of the commissioners and Mr. Bedini asked Mrs. Hill to notify Mrs. Canning by letter. Mr. Ajello stated that the two letters submitted were not official requests because there were no fees attached and should not have been added to the agenda.

Mr. Wadelton was reseated.

MOTION: To adjourn the meeting.

 Mr. Bedini adjourned the meeting at 7:55 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Administrator