



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ENVIRONMENTAL IMPACT COMMISSION
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EIC MINUTES

June 22, 2005

Common Council Chambers

The meeting opened at 7:39 pm, with Chairman Ben Chianese presiding.

Members Present: Chairman Chianese, Bruce R. Lees, Craig Westney, Kevin Russell, William J. Mills, Thomas Pinkham, Jr., Matthew N. Rose

Members Absent: N.A.

Staff Present: Scott T. LeRoy, MPH, MS, and Patricia Lee, Secretary

ROLL CALL:

Commissioners self-identified themselves from right to left. Lees motioned to accept tonight's agenda as presented. Rose seconded the motion, and it carried unanimously at 7:40 pm.

NOTICE(S) OF VIOLATIONS / CEASE & DESIST:

Continue to 6/22/05, Notice of Violation, 9/23/04, to Jerome J. Bigelow, 46 Payne Road, Lot # M13005. Cease & Desist order, 10/6/04, to Bigelow, by Timothy Bunting, Assistant ZEO. 12/8/04 EIC voted to allow Bigelow to remove the topsoil. Letter from Environmental Planning Svcs. rec'd. 4/13/05. On 6/9/05, S.LeRoy called Bigelow for progress report. This was continued to the 7/13/05 meeting.

Follow-up to Notice of Violation 12/14/04 to City View Farm, LLC, re: 80-82 Brushy Hill Road (Kenneth Kovacs - EIC **222**). Survey and soil study required, per S. LeRoy 4/27/05. Chianese asked that wetlands be flagged by 6/22/05 meeting. Attorney Dominic Chieffalo announced that Henry Moeller had flagged the wetlands, plus the wetlands outside of our property lines, as Scott T. LeRoy had asked us to do. I was out there today with the Tarrywile Authority and Joseph Mead. It's all mountain. Tarrywile is satisfied that we are not on Tarrywile property. "We have a very good relationship with Tarrywile." We'll donate woodchips if the want them for their trails. Joe Mead looked at all the activity. He is satisfied that there is no activity within 100 feet of the wetlands, with one exception: the pond. There is a stack of firewood and some woodchips near the pond. The chips have been removed. Is firewood stacking a regulated activity? There are some woodchips, not near the wetlands, and a compost pile. The client (Kovacs) wants to spread out the chips, and have an organic farm there. The farm will be "more of a hobby". Chieffalo discussed other options for the chips. He said they'll get permits from the City of Danbury. Scott LeRoy answered, that's a "very good description, Dom". The other issue is the stormwater, LeRoy said. He discussed creating swales for the water. That work will need a grading permit.

We can bring it into compliance under the grading permit process, and get some sedimentation and erosion controls out there. He's proven he's outside the regulated areas. Ben Chianese asked can we then remove the Notice of Violation? When will you get the grading permit? Chieffalo replied within two weeks. Lees asked LeRoy if he is satisfied. Mills asked if the property was surveyed. LeRoy replied, yes, we'll get a copy of this map. Lees made a motion to **remove the Notice of Violation**. Mills seconded the motion, and it carried unanimously at 8:04 pm.

Follow-up to Notice of Violation and denial, 12/10/04, to William S. Coffey, Jr., 43 Beaver Brook Road, EIC **585**. REMA to prepare remediation plan for 6/8/05. 6/8/05 Scientists proposed mitigation, planting plan. S. LeRoy to work closely with ecologists. Request to **table** rec'd. 6/22/05. Lees made a motion to table. Pinkham seconded the motion, and it carried at 8:05 pm with five in favor and one opposed (Mills).

Cease & Desist Order sent 4/19/05, 258 Great Plain Road, Regulated Activity # **564R**, William S. Coffey, Assessor's Lot # J04011. Admin. Approval by S. LeRoy 3/14/05. Complaint ltr. rec'd. from CLA 4/15/05. Seawall engineering plan to be reviewed by Leo Null. 6/8/05 S. LeRoy can then make recommendation. LeRoy opened this discussion saying that, since the last time we met, the Candlewood Lake Authority went out there with the Building Department. The engineer finally got back to Leo Null. He has to remove about a third of that wall and install footings, the rebuild the wall. That's the **update**, LeRoy said. Lees asked how is he doing the work? Under the Cease & Desist Order? LeRoy said the EIC gave me the authority.

Notice of Violation sent 5/23/05, 5 Cedar Drive, Patricia K. Bragdon, Assessor's Lot # J04110, seawall without permit, Candlewood Lake. Scott LeRoy said he's submitted a Regulated Activity application on 6/20/05. Mr. & Mrs. Bragdon came forward and described what they've done and showed photographs. Candlewood Lake Authority Brian Wood will look at the plan. The Planning Dept. said no permit is needed, and Leo Null said the plan to build the wall is fine, LeRoy said. Lees made a motion to **remove the Notice of Violation**. Mills seconded the motion. Being no further discussion, the motion carried unanimously at 8:09 pm. Chianese said the **application will go to Administrative Approval**, while Scott LeRoy spoke privately with the Bragdons.

PUBLIC HEARINGS:

88 South Street (Botelho)

Regulated Activity #603

Danbury Victorian Associates

Assessor's Lot # J15245, RMF-4 Zone.

Date of Receipt: 2/23/05

Fifteen 3-bedroom townhouses.

First 65 Days: 4/29/05. Second 65 Days: 7/3/05. New wetlands location & revised application rec'd. 3/9/05. Extension ltr. rec'd. 4/21/05. Rev. maps 5/25/05 (no quorum). Grading, utilities, landscape, lighting plans rec'd. 5/31/05. Environmental Assessment Report done by S. LeRoy 6/22/05. Revisions received 6/22/05. Chianese introduced the Public Hearing at 8:10 pm. Mark Kornhaas, P.E., signed in and identified himself. Kornhaas said we added a Conservation Easement behind the units on the southern portion of the property, and we have the stormwater quality and pollutant loading calculations. LeRoy said to the Board you want to ask first if the Public wants to speak. Chianese asked three times if there was any members of the audience who wish to speak for or in opposition to this request, and there were none. LeRoy took the mic and identified himself. He described his 6/22/05 Environmental Assessment Report. The proposal has 942 sq.ft. of wetland impact or loss. The City of Danbury asked for one to one mitigation. They will do more than a two to one ratio. They propose an on-line Vortech unit, pollutant reduction factors

(page 3), and standards and criteria for decision making (page 4). LeRoy asked if there were any questions at 8:17 pm. Lees said the format looks good. LeRoy said I've also prepared a Resolution of Approval and page four states the conditions of approval. They are "pretty much standard conditions of approval", LeRoy said. Chianese said regarding condition 5, the maintenance records, I want those submitted annually to the Health Department. Mills had a question on permanent wetland boundary markers on the property, in condition 2. Mills, Lees, Chianese, LeRoy and Pinkham discussed a permanent marker type, concrete, a 4" x 4", or 3" x 3", which Botelho can provide. Russell had a question on condition 6, which LeRoy explained. Bob Botelho stood up and said he thanks all of you for all your time; it will be "something special" and "good for the community". Lees motioned to close the Public Hearing at 8:26 pm. Pinkham seconded the motion, and it carried unanimously. Lees made a motion to accept this application as complete. Pinkham seconded the motion. Mills said I'll second it. Pinkham said, "Stay with us, Bill." The motion carried unanimously. Lees made a motion to **approve EIC 603** with eight conditions of approval, with an amendment to condition 5 to send maintenance records to the Health Department. Mills seconded the motion. Lees said this area has been a dumping ground, and there is "a net gain by approving" this application. The motion carried unanimously at 8:30 pm.

Saw Mill Road – The Reserve

Regulated Activity # 607

Woodland Group II, LLC

Assessor's Lot #A16002,C16012. PND Zone.

Date of Receipt: 3/23/05.

280 Rental housing units in 7 buildings.

First 65 Days: 5/27/05. Second 65 Days: 7/31/05. **Phase 1, phase B Housing.** New watercourse area mapped by soil scientist as per site walk 4/25/05. Revised site plans and mitigation report rec'd. 5/24/05. Ext. Itr. rec'd. 5/26/05. Revisions rec'd. 6/22/05. Attorney Paul N. Jaber asked if there were any questions, stating we finished our presentation at the last meeting. Tonight with me are John Block, Joe Canas, and Anthony Lucera. Scott T. LeRoy came forward and identified himself, and discussed his assessment report dated 6/22/05. LeRoy confirmed with Tony Lucera that the Army Corps of Engineers was on route to approving the wildlife corridor (page 2). Page 3 states that the mitigation proposed is approximately 0.333 acres, greater than a one to one ratio, as per the recent maps. There will be, LeRoy said, three different stormwater areas being treated independently (pages 3 & 4). The summary of decision making issues and mitigation measures begins on page 7. LeRoy said the attachments are the most important thing. Chianese asked, once the Army Corps of Engineers approves, can we make that a part of this record? LeRoy replied it's under review; they are very busy people. Chianese said this is a Public Hearing. Chianese asked if there are any members of the audience who wish to speak for or in opposition to this request. This he asked three times, at 8:39 pm. LeRoy next discussed his Resolution of Approval, stating that the Public Hearing will close this evening. The conditions of approval are attached (pages 4 through 9). I copied the old ones and threw them onto here, LeRoy said. Make sure the Army Corps of Engineers report is added too. Page 6 talks about the certified arborist, the guy in the tie at the foot of the bucket truck, directing the cutting of the trees (condition 8). We'll do that for each phase, LeRoy said. Chianese asked, regarding the arborist, his report should be submitted before the trees are cut, directly to us. LeRoy said the site will change every day. A plan doesn't tell you what is happening; "that seems to be a reasonable solution". Chianese said regarding the Best Management Practices (BMP) maintenance report, the report shall be submitted yearly to the Health Department. Pinkham suggested having the arborist submit one plan before they cut. LeRoy said just have the guy there; it will be part of the grading permit process. Mills asked for a "simple change" to page six, condition 14, the report "*will*" be provided under the BMP maintenance report. Pinkham made a motion to close the Public Hearing. Mills seconded the motion and it carried unanimously. Pinkham motioned to accept this application as complete. Mills seconded the motion. The motion carried unanimously at 8:46 pm. Pinkham made a motion to **approve EIC 607**, The Reserve 280 rental housing

units, with 29 conditions of approval as per Mr. LeRoy's resolution of approval. Mills seconded the motion. Chianese added with the amendment to report to the Health Department on a yearly basis. Russell motioned to change the work to "will" on page six, condition 14, and to correct the wording on condition 11 on page six to read properly, bonding should be held for a three-year period. Is that acceptable to the applicant? Tony Lucera replied "fine". Pinkham seconded the motion. The modified motion carried unanimously at 8:50 pm.

OLD BUSINESS:

Old Forty Acre Mountain Road-Parcel B Regulated Activity # 614

Curt Verdi – Verdi Construction

Assessor's Lot # K04199 (portion)

Date of Receipt: 4/7/05.

3 Lots, homes, wells, septic. RA-80 Zone.

First 65 Days: 7/1/05. Second 65 Days: 9/4/05. Tabled to 6/8 by M. Mazzucco. Alternate plan rec'd. 6/3/05. Following a five-minute recess, the meeting resumed at 8:51 pm. Pinkham made a motion to **table** EIC 614. Lees seconded the motion, and the motion carried unanimously. Secretary Lee will ask for an extension letter.

37 Ironwood Drive

Regulated Activity # 616

William A. Asmar

Assessor's Lot # C11018, RA-40 Zone.

Date of Receipt: 6/8/05.

Single-family residence.

First 65 Days: 8/12/05. Second 65 Days: 10/16/05. Soils report rec'd. 5/24/05. Revised map rec'd. 6/15/05. Chairman Chianese introduced this application at 9 pm. Bill Asmar came forward and identified himself, saying I'd like to get approval for a four-bedroom home. The EIC had a concern about vernal pools. I have a report from ESM Assoc., Inc., regarding the presence of absence of a vernal pool and plants for a planting plan. I have a report, Asmar said, from Ralph J. Gallagher, Jr., an Environmental Analysis Report, as required in the Watershed Protection Zone. I just got both reports today, Asmar said. Mills made a motion to **table** this. Pinkham seconded the motion, and it carried unanimously.

NEW BUSINESS:

Saw Mill & Old Ridgebury Roads

Regulated Activity # 619

The Reserve-Phase 8, phase A

Assessor's Lot # A16002, C16012.

Date of Receipt: 6/22/05.

Sales & design studio. PND Zone.

First 65 Days: 9/2/05. Second 65 Days: 11/6/05. John Block, P.E., of Tighe & Bond in Shelton, CT, identified himself and said he's here tonight with Joseph Canas, P.E., the project engineer. Block described the vicinity, stormwater management, roof run-off, parking area run-off discharge, an on-line Vortech unit, no increase to the peak flow, City sewer and water, and an assessment by Cynthia Rabinowitz, Soil Scientist. We will try to get this built this fall, Block said. For the housing parcels, this will be a real design studio. Pinkham helped Secretary Lee distribute the correct plans. Chianese said we'd like to see some alternatives. LeRoy asked does the back border town property. Block said yes, and showed LeRoy where on the map. These 13½ acres were donated to the City of Danbury. This site originally called for an office building. We could move it over here, Block said. We'll come up with some alternatives; there's no hardship for a variance. LeRoy asked Block to show how it works with the grades. Chianese asked if the Commissioners had any other questions for the applicant. Lees asked John Block about the stone wall, the wildlife

corridor line, and the distance to the wetlands. Block said we're outside the wildlife corridor. He showed where 100 feet from the wetlands would be. The disturbed area is less than one third of that lot. Canas said we disturb close to an acre. Mills asked them to do whatever it takes to reduce that impact. Secretary Lee said the Planning Director would like to see another Amber Room after the 8 to 10 years, instead of demolishing it. Chianese replied that the Planning Director is not a part of this Commission. Lees, LeRoy, Chianese and Mills had questions about alternatives, square footage of the building, stone wall, the ridge line, and the size of the Amber Room. Mills asked that the proposed building be staked in the field. Block said okay. Lees asked if the wetlands are all flagged, and Block replied that they are all flagged now. Pinkham made a motion to **table** this to 7/13/05. Lees seconded the motion, and it carried unanimously at 9:20 pm.

Padanaram Road

Regulated Activity # 620

Cotswold of Danbury, LLC

Assessor's Lot # F07052, RA-20 Zone.

Date of Receipt: 6/22/05.

57 cluster residential units.

First 65 Days: 9/2/05. Second 65 Days: 11/6/05. (Tape #1 flipped to side B at 9:20 pm). Ben Chianese introduced this New Business at 9:21 pm, and gave a history of the previous withdrawal from the EIC. Mr. Donal Walsh of Development Strategies Company, LLC, came forward and identified himself. He gave a "brief synopsis" of the reworked plan for the units. We "took a couple of units out". The abandoned road does exist there. We met with Scott LeRoy, Walsh said, the Fire Marshal, engineering, regarding "blazer access". There will be no units on that lower road. LeRoy asked for another alternative with a changed exit. Walsh said it's "about half the number of units that were previously proposed" for the site. Walsh said we will leave the wildlife corridor open there. We'll have high pressure water available there from Danbury High School. They will want one of those access gates there. Mills said so there must be access off Padanaram anyway. Walsh said yes, under that alternative. The tanker fire truck is more of an issue. I have to yield to them and their wishes, Walsh said. For a Public Hearing schedule, I've discussed with Pat the Swampfield Land Trust donation of all wetland, discussion with the City of Danbury, therefore we'd like a Public Hearing to open 7/27/05. Mills said you can donate that land anytime. Walsh said I understand; that's true. But I'll honor the request of the Swampfield Land Trust, as I'm working with them. Due to vacations, Paul Jaber is not available 7/27, and I'm not available 8/10/05, Walsh said. Chianese asked how many units. Walsh answered 57, down from 60. Walsh discussed the Swampfield Land Trust, the land clean-up, and said, "I'm certainly flexible". Joe Canas said we plan to submit a cut and fill map. LeRoy recommended he have the wetland flags checked. Walsh said I will. LeRoy said have the new buildings marked in the field. Walsh said I will. Mills said he'd like to do a site walk before the Public Hearing. LeRoy discussed going to 8/10 or 8/24/05 for a Public Hearing, and asked everyone to check their schedules. Westney said he's away 7/27/05. Pinkham suggested Walsh have everything staked and flagged by 7/27/05. Walsh said on the 13th we'll have a letter for you telling you what's completed; we'll "at least have a letter". Chianese said it ck to you with a Public Hearing date. Walsh said I asked Matt Popp to double-check his previous findings relative to the new proposal, and I'll try to have that report ready by 7/27/05 also. I've agreed to repair that culvert. Pinkham made a motion to table this to 7/13/05; meanwhile, people check your schedules for a Public Hearing date. Lees seconded the motion, and it carried unanimously at 9:40 pm.

445 North Main Street

Regulated Activity # 621

Four Star Realty, LLC

Assessor's Lot # H12078, CL-10 Zone.

Date of Receipt: 6/22/05.

Gas station renovations.

First 65 Days: 9/2/05. Second 65 Days: 11/6/05. Attorney Gary Michael, of 52 Deer Hill Avenue, came forward and identified himself. This has been a service station for over 50 years. I'm in partnership with Dennis Ramey. We've done extensive remediation since the soil was very contaminated. The DEP told us to take the canopy down, so they could do remediation. In 1988, Henry T. Moeller located an intermittent manmade watercourse, a "ditch". I'm asking, Michael said, that this be referred to Administrative Approval to clean up the site and get the station reopened. Only 6 cubic yards of material need to be removed. All soils have been brought down to hard pan. There is a grant for monitoring the water in wells on the site for the next five years, per the DEP. LeRoy said the work that's been completed was done without a permit; "that's why you're here". Michael said this was an "emergency situation". "We had to act quickly". An area blew up on Clapboard Ridge due to build-up of gases. The Fire Marshal and the City of Danbury was aware of this, Michael said. We've owned the property since 1995. That all has been done and completed, and the State is satisfied, Michael said. LeRoy had a question on the sedimentation and erosion controls on the site. Michael said we have no problem doing sedimentation and erosion controls. "We feel it was beyond our control". "It was a spill". We acted as "good corporate neighbors". LeRoy said regarding the stormwater report, that should be cleaned out. Michael replied that was what the report said. LeRoy asked has an engineer looked at the entire system; Henry T. Moeller is not an engineer. Michael said we'll be glad to comply with all Mr. LeRoy's requests. Chianese and Pinkham asked about moving this to Administrative Approval. LeRoy said have an engineer get me a report. "We're treating you the same" as any other applicant. Pinkham motioned to **move this to Administrative Approval**. Lees seconded the motion, asking Scott LeRoy to "bounce it back" if there are any problems. The motion carried with six in favor and one (Mills) opposed at 9:53 pm. Mills and Pinkham discussed why Mr. Mills is opposed. Westney said it's not a high quality wetland anyway.

ADMINISTRATIVE STAFF APPROVALS:

The following Administrative Approvals were granted June 9, 2005, by Senior Environmental Inspector Scott T. LeRoy, MPH, MS:

APPROVED **Regulated Activity # 319R-I**, Plumtrees Road, Plumpar, LLC (M12003).

APPROVED **Regulated Activity # 523R**, Saw Mill & Old Ridgebury Roads, WhiteCo Residential, The Reserve, Phase 1-phase A modifications. (A16002, C16012).

APPROVED **Regulated Activity # 615**, 23 Alan Avenue, NeJame & Sons (H11113).

APPROVED **Regulated Activity # 612**, 10 Valley Stream Drive, George Manolis & Lisa Capellaro (J08020).

APPROVED **Regulated Activity # 526R-I**, 73 Boulevard Drive, Lake Place West, LLC (D16001).

CORRESPONDENCE:

C.A.C.I.W.C. Spring 2005 Newsletter (Connecticut Association of Conservation & Inland Wetlands Commissions, Inc.)

Two Aquatic Pesticide State Permit applications: Miller – Stephenson, 55 Backus Avenue,

and Lake Wackawana, 17 Allen Road, by Connecticut Pond Services of Sandy Hook, CT.

EIC ADMINISTRATION, OPERATIONS & FUTURE AGENDA ITEMS:

Scott T. LeRoy, MPH, MS, and his Excellent News: he is the new Health Director of the City of Danbury. Tom Pinkham recommended Scott be given a congratulatory "golf clap".

Olympic Drive

Regulated Activity # 617

Twenty Six-Four Olympic Drive, LLC Assessor's Lot # F21005

Date of Receipt: 6/8/05. 9-lot residential subdivision, RA-80 Zone. First 65 Days: 8/12/05. **Public Hearing** to open **7/27/05**. LeRoy recommended the Commissioners review that application materials that were given out.

ADJOURNMENT:

Matt Rose motioned to adjourn. Tom Pinkham seconded the motion which carried unanimously. The meeting adjourned at 10 pm.

The next regularly scheduled DEIC meeting will be held 7/13/05. Chianese said why not schedule Cotwold's Public Hearing opening. LeRoy said we'll decide on 7/13/05 on a date for their Public Hearing.

Respectively Submitted,

Patricia M. Lee, EIC Secretary