



CITY OF DANBURY
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Environmental Impact Commission

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MINUTES

September 28, 2005

Common Council Chambers

Next regularly scheduled meeting date **10/26/05**.

The meeting opened at 7:40 pm.

Members Present: Chairman Benjamin Chianese, Bruce R. Lees, William J. Mills, Alternate Kurt A. Webber (for Rose)

Members Absent: Craig Westney, Thomas Pinkham, Jr., Kevin Russell

Staff Present: Jack Kozuchowski, Coordinator of Environmental and Occupational Health Services, Secretary Patricia Lee

Chairman Benjamin Chianese opened the meeting and had the Members identify themselves. Commission voted approval of Minutes for the 8/10/05 meeting. Commission voted to move **EIC 628** to the first OLD BUSINESS item.

STAFF REPORTS & COMMUNICATIONS:

Jack S. Kozuchowski discussed the following five violations and made recommendations for each (see below). Kozuchowski recommended that **EIC 624** and **EIC 629** (Chambers Road) be moved to Administrative Approval. Kozuchowski will have **EIC 628** (Ann's Place) report done by 10/27/05 meeting. He has not reviewed **EIC 529R** yet.

NOTICE(S) OF VIOLATION / CEASE & DESIST:

Notice of Violation, 8/22/05, to Gregory Street (G13215), Parcel B, **EIC 380**. Voted on 9/14/05 to return site to original condition by 12/14/05. 9/28/05 Kozuchowski recommended hiring environmental professional, and submitting a request for revisions to approved plan. Jose Lima spoke in defense of his project, stating that he thought permits had been obtained. Lees observed there's a breakdown in the City permit process, and Kozuchowski agreed.

Notice of Violation, 7/19/05, to South Street/ Mannion Lane, **EIC 481**, Timber Oaks, Bethel Danbury Two, LLC, John Horton (fka, Lexington Crossing, Baker Residential). Voted on 8/10/05 to release Notice of Violation when revised site plan is received. Supplemental Erosion Control Plan rec'd. 9/13/05. Waiting to hear if fees are paid

yet.

Continue, Notice of Violation, 9/23/04, to Jerome J. Bigelow, 46 Payne Road, Lot # M13005. Cease & Desist order 10/6/04, to Bigelow, by T. 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. Survey rec'd. 7/12/05. Continued to 8/10/05. Requested soil test report from M. Klein. Corporation Counsel sent 14-day letter sent 9/16/05. Response letter rec'd. from P. Olson 9/27/05. **EIC#631** application received 9/28/05 for Regulated Activity (see NEW BUSINESS).

Follow-up to Notice of Violation and denial, 12/10/04, to William S. Coffey, Jr., 43 Beaver Brook Road, EIC **585**. 6/8/05 Scientists proposed mitigation, planting plan. 8/29/05 Engineer Ramunni's report rec'd. Engineering Dept. is reviewing slope stabilization per Kozuchowski 9/28/05.

New violation: 88 King Street. Kozuchowski will send C & D Order for pond dredging without a permit. This will be on the next agenda, Kozuchowski said.

Kozuchowski recommended that the two Chambers Road (**EIC 624** and **EIC 629**) applications be moved to Administrative Approval. They've agreed to our conditions including a Conservation Easement. Kozuchowski said he'll have the summary report for Ann's Place (**EIC 628**) done for the next meeting.

PUBLIC HEARINGS:

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.

Public Hearing opened 8/24/05, continued 9/14 and 9/28/05, with 12/2/05 deadline. Additional documents requested 8/24/05. Report from Danzer rec'd. 9/12/05. Extension letter rec'd. 9/16/05. Request for access for boring rig to northern part of site received 9/27/05 from Tighe & Bond. Chianese introduced this Public Hearing at 8:06 pm, and described the procedure and time frames for the applicant & the Public. Donal Walsh of Development Strategies Company, LLC, took the mic and signed in. He said that Attorney Paul Jaber had lost his father earlier today, so I will do Jaber's comments. Walsh described the discussions with Fire Marshals Rickert and James Johnson. We should have a letter from Johnson by the next meeting about the connecting road. Walsh asked the Commissioners if they have looked at the Catastrophe Analysis/ Plan yet. Walsh said Dr. Abrams began work after the last meeting and will have a preliminary report, with input from Danzer and Popp, at the 10/12/05 meeting. Danzer did not know that Sean Hayden of the Northwest Conservation District had evaluated the wetlands. There's a voluminous amount of information, engineering questions for the wetlands, and concerns about the runoff and conditions of the roads, Walsh said. There is a concern that other people can go on this property without insurance through M-Credit, the property owner. For a site visit, make arrangements with Paul Jaber. Walsh said we've completed the slab analysis, which would mitigate against needing blasting. Joe Canas will comment on that. Because of that we are amending our financial analysis, Walsh said. We'll have that sometime in October. We've asked LeRoy's permission to get a Geo-probe onto

the property with minimum intrusion. Joe Canas will finish addressing LeRoy's early comments in his first memo. Finally, Henry T. Moeller is working on a massive new map, which should be here by the 10/12/05 meeting. Paul Fagan has filed smaller ones with LeRoy. Mills noted that in Danzer's comments he mentioned mis-marking some houses, and have you addressed that. Fagan replied one building was mis-labeled, and our crew has rectified that. Mills asked him to show us the houses that will have slabs. Walsh said it may change some things, but "it does work". etings; there are three meetings left before the 12/2/05 deadline. Chianese said, if needed, we will hold a special November Public Hearing. Joseph Canas identified himself at 8:25 pm, from Tighe & Bond in Shelton, CT. Canas said in Danzer's letter, he requested some testing. We submitted a request yesterday to cross the wetlands with a temporary disturbance and some cutting, about 1498 sq.ft., to do this testing. Canas discussed some alternative access routes that would not work. I met today with Danzer, Canas said, and I'm working on responses to him. Canas said I'm working on Alternates 2 and 3. We're presenting two retaining wall options in 2 and 3, which Canas briefly described. As for the slab analysis that Don Walsh alluded to, "let me pull out the map". 35 houses could be on slabs, and 22 could have basements. There will be slabs in the cut zones, and basements in the fill zones. Canas discussed the information on pollutant loading that has been expanded a bit with additional sedimentation and erosion controls. He described the stormwater management plan, with no detention basins required. Chianese asked are these maps done? Canas said you'll have them by Friday; the maps are done. Lees had questions on alternates, time-frames, permitting the Commissioners to go out on a site visit when the boring rig goes out. Secretary Lee said LeRoy has not seen that yet. Webber asked about a "funneling system" for that tremendous amount of water. Canas described how they plan to collect the water at the top of the retaining wall, the swale, reducing velocity for a better stormwater management practice. Mills asked about eliminating the retaining walls. Canas said I don't have the drainage plan with me tonight, but I can explain it, which he did. Mills asked if there will be any blasting required where you're putting retaining walls and for some kind of data on the block that they're using. Canas said they are segmental blocks to stabilize the retaining walls. I can answer the question on blasting better after LeRoy approves the boring rig studies. I'll drop off the maps to Secretary Lee on Friday, Canas said. Mills said I would like to do a site walk with somebody once we have that information. Matt Popp identified himself and signed in at 8:40 pm, saying I have a letter that addresses all of LeRoy's concerns about mitigation, wildlife, the black bear, deer, turkeys not being endangered species, the wildlife corridor and habitat being preserved. Popp said total of 275 trees will be removed, and, divided by the acres, it comes to about four trees per acre. He submitted his letter dated 9/27/05 (Exhibit # 1). "We're not disturbing anything that wasn't disturbed before", Popp said. Mills said he'd save his questions for later. Walsh said we'll use an arborist. Chianese said if we have a special meeting, we'll probably have it on Wednesday 11/16/05. Secretary Lee said she'd check with LeRoy. Chianese asked if there was anyone who wished to speak for or against this application. Mr. Del Ryan from 8 East Gate Road came forwarded, saying I attended the last meeting, went home and thought "how does that affect me now". I have some photographs (Exhibit # 2), which he distributed. Lees asked can you show that area on the map. Ryan did so at the easel; it's right across from Windward, to the right a little bit. A State 24" pipe ran years ago down from Clapboard Ridge Road carrying a massive amount of water, Ryan said. I started looking into it, and the State came up and helped me clean out this trench. The State said build a sand trap, which I did. So now the State comes up once a year and cleans out this trench, and he handed out photos. The water, Ryan said, comes down "so heavy it tears the banks

up". Now this is our property. I called the State engineer and she said there are at least three more 18" pipes coming down. The point I want to make, Ryan continued, is that the applicant did not present these plans to the State engineer, Clare Lavoie. I just want to make you aware that on the west side of East Gate Road a lot of water "really shoots" down. It used to float our pool. It comes down from Clapboard Ridge Road and "just boils out of the ground", Ryan said. Chianese said have you contacted Clare LaVoie. Joe Canas replied no, we may not be required to. Canas referred to the proposed conditions watershed map and reviewed it with Del Ryan at the easel. Lees said can I ask the applicant are there any drainage easements, City, State or Federal, and have you researched this? Paul Fagan volunteered there are no drainage rights on the property. Again, Chianese asked are there any members of the audience who wish to speak for or in opposition to this request.

Eugene Gaudreault from 3 East Gate Road came forward, signed in, and thanked the EIC volunteers for their work. Gaudreault said a landslide is a consideration, plus wet basements, mold and unhealthy conditions, and he requests the EIC deny this plan. Gaudreault had questions and concerns about the retaining walls. He denounced the suitability of this site, "things falling down, sliding down hills".

Next, John Radachowsky from 91 Padanaram Road came forward to talk about retaining walls. Will this disturb the hemlocks? There are many soil-eroded ravines that are now dry, Radachowsky said, but they were created when the water comes down. There will be water coming down into the river, possibly bringing silt, maybe killing the trees. The hemlock trees roots hold the soil. "That ledge is going to go down in about four or five years", Radachowsky concluded.

Joe Canas said we have a series of sediment traps at the top of the retaining walls. We also have sediment trapping devices and gross particle separators that will improve the existing conditions.

Jim Dobush of 46A Hillandale Road next came forward saying I just have a few comments. We all have an increased hurricane awareness now, Dobush said, and discussed storm events.

Steve Blake of 10 Mountain Laurel Lane signed in and said he's concerned about the 275 trees greater than 12" in diameter that are going to be cut down. When the trees are gone, there will be erosion in spite of retaining walls. I just returned from California; a number of houses coming crashing down there is the result of not having trees. You cannot insure for this problem there. On the west side of the highway a retaining wall failed, Blake said, and covered a number of cars there. The blasting at Stetson Place, Blake continued, has cost me personally \$4000 since it disrupted my septic system. "If you come to a rock, you're going to blast", and the neighbors will be affected. Blake reported seeing a hawk that he suspects is an endangered species; he asked Matt Popp how much time he had spent on the site. Popp replied that he's been on the site ten times, and now is hawk migration season. Today was an ideal day for hawk migration, Popp said; "they fly through New York City and all over the place". Blake referred to Danzer's report calling this an "ideal habitat". A nice "ten-year moratorium" would be a wonderful thing, Blake concluded.

Tom Pura from 43 East Gate Road next identified himself. (Tape #1A flipped to side B). Pura said that does that every time I get up here. Pura discussed the water coming down from Golden Heights onto East Gate Road. The trench is 15 feet deep; that water erosion "is significant". Pura said Danzer's "report is an indictment" against this project. Pura read from Danzer's report about the avoidance of impact, and "minimalizing the footprint". This document, Pura said to the Commissioners, "gives you guys the blueprint". You have a chance to disapprove it, to make them downsize it. Pura questioned the timing of submittals by the applicant.

Mr. Mohsen Bidgoli from 45 East Gate Road identified himself, saying I bought a

home here four years ago when my company moved me from Indianapolis. It had "washed out quite a bit" in only four years. I replaced the retaining wall two years ago; I had to straighten it out just from the force of the water. "I'm against it, of course", referring to this project, in answer to Bruce R. Lees.

Chianese interjected once the Public Hearing is closed, we have 65 days to make a decision.

Melinda Wilkens of 5 Mountain Laurel Lane came forward, saying I continue to oppose this petition. I echo many of my neighbors' concerns. Dr. Danzer's report does not actually state that there are vernal pools on the site. They're usually small and easily overlooked. Wilkens quoted several studies about vernal pools, and said they are missed at certain times of the year. I "implore you to stay all actions", Wilkens said, until vernal pools are identified.

Chianese asked have you found vernal pools?

Matt Popp replied that no vernal pools were identified on this site. They are normally not on steep slopes like this. Popp said you always look for vernal pools; "I observed none".

Next Mark Fry came forward and identified himself. Fry said, as I made clear the last time, I build bridges between the two sides. I'm hired by the applicant. I'll wait till the end for my comments.

Ken Gucker from 89 Padanaram Road took the mic at 9:27 pm. I asked Tom Pura, Gucker said, to bring up the issue of the deadline for submittals. I regularly go down to City Hall. Each time I go down there, there's not much new, except on the night before the EIC meeting. I've asked where does all that water go. At my property after a heavy rain, those pipes will drain for two to three weeks. The water that flows under those hillsides is now going to be channeled out. "What is the actual drainage plan?" Where are all the separators; where will they pick up all of that water, Gucker asked. There's a 70-foot drop, a pitch of about 13 or 14 degrees. Level separators are basically a field of grass. Riprap is a dish full of rocks. From living in this area, Gucker said, I don't see how these "simplistic designs" are going to deal with all of this water. It should be in the "fiction section of the library", Gucker said. I brought up the question of the water quality with the State Dept. of Environmental Protection. The DEP was very surprised that this project was going along, Gucker concluded.

Next, Mr. Romolo DeGrazia from 101 Padanaram Road came forward and signed in. I'd like to submit a letter of correction regarding the miswritten name of Mountain Laurel Lane. I'd like to raise some questions, DeGrazia said. If the roads were moved farther apart, there would be no need for the emergency road. Why are only the large trees being counted? And shouldn't these large pipes be picked up.

DeGrazia thanked the Commissioners at 9:35 pm.

Donal Walsh again came forward, saying one of the key points is that there never was a stormwater management plan. There was no such thing as intelligent planning. We've taken all of these issues into consideration, Walsh said. Mr. Canas will be available for the Public to answer any questions and to address Mr. Gucker's concerns. Lees requested a manifest for the next meeting listing all documents and dates submitted, plus what we're still waiting for. Lees made a motion to **continue** the Public Hearing at 9:40 pm to 10/12/05. Mills seconded the motion, and it carried unanimously.

OLD BUSINESS:

Saw Mill Road/ The Reserve Regulated Activity # 628

Ann's Place, Phase 7, phase A Assessor's Lot # A16002, C16012, PND Zone.

Date of Receipt: 8/24/05. 14,000 sq.ft. office building.

First 65 Days: 10/28/05. Second 65 Days: 1/1/06. Cut & Fill, Layout plans received 9/8/05 from Tighe & Bond. Revisions, alternate plan rec'd. 9/26/05 discussed. Following a brief recess, the EIC meeting reconvened at 9:50 pm. John Block, P.E., with Tighe and Bond identified himself & took the mic. At the last meeting, we were asked to look at alternatives. This week we submitted a revised plan (Alt. revised 9/26/05, SP-4) which provided a K-turn, so the impact is reduced and the impervious surface is reduced. Mills said, "Beautiful". Block said they will use the same type of treatment that meets the City requirements. Chianese said that Jack S. Kozuchowski will have his report by the next meeting, and asked if there were any questions. Mills had some questions on riprap. Block said we'll restore that water quality system. Chianese asked is the parking the same, and Block replied yes. Block, Lees and Chianese discussed the wetland line, the habitat Conservation Easement, and the paved striped parking lot. Lees said this is a "great compromise". Motion to **table** pending staff report by Mills. Second by Lees. Motion carried unanimously at 10 pm.

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. Alternate plan rec'd. 6/3/05. Extension ltr. rec'd. 6/28/05. Chianese announced that the applicant has asked us to table this. They are waiting for the Health Department report from Kozuchowski or LeRoy. The delay is with the City staff, not the lack of information. Motion to **table** by Lees. Second by Mills. Motion carried unanimously. (Application was later denied 9/29/05 via a letter from Scott T. LeRoy).

Prudential Realty- Richard S. Jowdy Regulated Activity # 624

Chambers Road Assessor's Lot # D07068, RA-40 Zone.

Date of Receipt: 7/13/05. Subdivide to two residential lots.

First 65 Days: 9/16/05. Second 65 Days: 11/20/05. J. Kozuchowsky's comments rec'd. 8/10/05. Extension letter rec'd. 9/15/05. M. Mazzucco submitted new plans 9/27/05. Kozuchowski recommended moving to Admin. Approval. Michael Mazzucco came forward and said we added a Conservation Easement, and Jack Kozuchowski wanted an aerial photo so we provided that as well. Lees asked can we just review the new plans. Mazzucco and Lees discussed the distance to the wetlands. Motion to **move to Admin. Approval** by Lees. Second by Mills. Motion carried unanimously at 10:03 pm.

Rockwood Lane Regulated Activity # 626

Paul Defabritis Assessor's Lot # B09002, RA-80 Zone.

Date of Receipt: 8/24/05. SF home, well, septic, driveway.

First 65 Days: 10/28/05. Second 65 Days: 1/1/06. Plans to S.Danzer 8/17/05. Mazzucco stayed at the microphone, stating that the applicant has not gotten the staking done. Chianese asked who. Mazzucco said Paul Hiro, plus we're waiting for Danzer's report. Motion to **table** pending Danzer report by Mills. Second by Webber. Motion carried unanimously at 10:09 pm.

NEW BUSINESS:

137 Chambers Road

Regulated Activity # 629

Prudential Realty (R.S. Jowdy) Assessor's Lot # D07067, RA-40 Zone.

Date of Receipt: 9/28/05.

Enclose porch/patio & new open deck.

First 65 Days: 12/2/05. Second 65 Days: 2/5/06. Kozuchowski recommended moving to Admin. Approval. Chianese said Mr. Kozuchowski recommended that this go to Administrative Approval. Mazzucco stayed at the dais, stating this is an addition of the southerly side of the building, and he described the deck and porch addition. A B-100 plan was submitted. Lees asked is the porch to be built within or outside of the 100-foot wetland line. Mazzucco said I left my scale in the truck. Mazzucco said it's about 75 feet from the wetland to the new deck. Within the 100-foot line, you have the existing enclosed porch. Chianese asked if there were other questions. Mills said he had a question: I've never seen this before. Secretary Lee said it's New Business. Mazzucco described what a co-compliant plan is: you can use the existing septic system until it fails; you don't have to do anything to it. Motion to refer EIC 629 to **Admin. Approval** by Lees. Second by Mills. Motion carried unanimously at 10:10 pm.

60 East Lake Road

Regulated Activity # 630

William & Colleen Stanley, Jr. Assessor's Lot # F05013, RA-40 Zone.

Date of Receipt: 9/28/05.

SF home, septic, well, driveway.

First 65 Days: 12/2/05. Second 65 Days: 2/5/06. Chianese introduced this application. Bill Stanley took the mic and Colleen Stanley sat in the front. Stanley said this is East Lake Road, not East Gate. We will tear down the existing home, replace the septic, and that is obviously why we're here. There's no construction in the wetlands, and we'll basically stay within the same footprint. Building, Health and Zoning have already signed off on it. Stanley said "there's a little story" behind the drainage ditch. The ditch is roughly 4 to 8 feet deep. This was Huntington Estates in the eighties. The lady I bought the lot from allowed Novell to come and dig this ditch. She understood it would be piped or rippapped, but that never happened, Stanley said. Chianese said there must be an easement; this is man-made. Lees asked what's behind you. Bill Stanley said another building lot. He showed the map to Webber and Lees at the podium. He discussed removing the building, the drainage and the wooded area. The property is flat, dry and beautiful, Stanley said. She put a little bridge over it. The ditch goes into East Lake; it travels quite a way. I have photos I'd like to submit, plus letters from my neighbors. Chianese had a question on any easements on the property. Lees asked why this can't go to Administrative Approval; the other issues did. Mills said Kozuchowski requested the

others go to Administrative Approval. Chianese said we want to see if it's properly permitted. Stanley said this house was built in the forties; the neighbors told me about the ditch. Motion to **table** by Mills. Second by Webber. Motion carried unanimously at 10:21 pm.

62 Chestnut Street, Inc.

Regulated Activity # 529 R

62 Chestnut Street

Assessor's Lot # J13298, RMF-4 Zone.

Date of Receipt: 9/28/05.

Engineering requests drainage revisions.

First 65 Days: 12/2/05. Second 65 Days: 2/5/06. Artel Engineering Group, LLC. Chianese introduced this item at 10:22 pm. Dainius Virbickas, P.E., identified himself and his company. He said this was before the EIC previously and was approved 12/10/03 by the EIC. In the permitting process, this hit "some bumps and hiccoughs" along the approval path. The Engineering Dept. requested some modifications, which Virbickas reviewed. Chianese had comments on the previous approval and easement. Secretary Lee showed the old conditions of approval to Chairman Chianese in his file. Virbickas said there are no wetlands her to enhance or mitigate, so Doyle's Pond at Hatter's Park has been chosen for off-site mitigation. Chianese asked you have to mitigate off-site? Virbickas described the off-site mitigation. It was suggested by the Engineering Dept. and we ran it past Scott LeRoy, who suggested we hire a professional to evaluate that ditch. Chianese asked isn't there anywhere else in town, other sites? Virbickas said this is what Engineering offered and have budgeted for. "I know I'm thrusting a lot at you", Virbickas said. This pond or this park, it's very nice, and he clarified what the City had budgeted. Lees said could you put together a budget, and Virbickas replied sure. Motion to **table** to 10/12/05 by Mills. Second by Webber. Motion carried unanimously at 10:31 pm.

46 Payne Road

Regulated Activity # 631

Estate of Jerome Bigelow

Assessor's Lot # M13005, IG-80 Zone.

Date of Receipt: 9/28/05.

Jeffrey Bigelow & Milton Feldman.

First 65 Days: 12/2/05. Second 65 Days: 2/5/06. Wetlands enhancement project. Motion to **table** by Lees, as requested by agent, Atty. Peter Olson. Second by Mills. Motion carried unanimously at 10:32 pm.

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: N.A.

ADMINISTRATIVE STAFF ACTIONS: N.A.

CORRESPONDENCE:

Connecticut Association of Conservation & Inland Wetlands Commissions, Inc. (CACIWC) Newsletter, The Habitat, Vol. XVII No.3.

EIC ADMINISTRATION, OPERATIONS & FUTURE AGENDA ITEMS:

Cotswold site visit, Inland Wetlands and Watercourses Regulations Amendments, and EIC fee schedules discussed. Chianese said I'll e-mail the regulations to Pat and she'll e-mail them to each of you. Then we'll set a Public Hearing date. No one will speak for or in opposition to the regulations. Mills suggested we have the boat ride this weekend. Lees said e-mail us the time and place chosen by Larry Marsicano of the CLA. The upcoming elections in December were discussed by all. Mills will be working on fee schedules. Mills discussed orienting LeRoy's replacement. Commissioners discussed a Cotswold site walk, perhaps while the boring rig is out there. Webber suggested not inviting the Public while the rig is out there. Lees said let's have Scott LeRoy or Steve Danzer here for a Special Meeting, maybe 11/16 or 11/30. Mills said he'd asked Joe Canas for a revised cut and fill map and it should be here on Friday. Commissioners discussed the dates for requested information and Danzer's final report.

ADJOURNMENT:

Motion to adjourn by Lees. Second by Webber. Motion carried unanimously at 10:45 pm.

The next regular meeting of the DEIC will be held on **10/12/05**.

Respectfully submitted,

Patricia Lee, EIC Secretary