

CONSERVATION COMMISSION
REGULAR MEETING APRIL 16, 2013
CONFERENCE ROOM L 101

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotapes on file in the Office of the Town Clerk. Audiotapes are retained for the minimum period required under the retention schedule as provided under Connecticut Law.

Chairman Block called the roll call at 7:03 p.m. and noted Commissioners Ancona, Clark, Igielski, Sadil, and Zelek were present. Also present were Alternates Krawiec and Paskewich and Chris Greenlaw, Town Engineer.

Chairman Block designated that Alternate Paskewich would vote for Commissioner Shapiro.

ITEM III
ACCEPTANCE OF MINUTES

Special Meeting of February 28, 2013

Commissioner Clark noted the following corrections:

Page 12, 2nd paragraph from bottom, lines 3 through 4 should read “fractures and Tectonic (Teutonic) fractures parallel to the fault as shown in Figure 3. Some of the Tectonic (Teutonic) have been mineralized, with quartz, calcite and barite (barria). The fractures from the core space”

Page 13, paragraph 6, line 2 should read “evaluated this site since August of 2011 and the next hydro-geologist that (said) will end up at this site”

Page 14, paragraph 3 should read “Commissioner Zelek: So my best recollection was the mitigation was to move the crusher as far away (as way) as possible.”

Page 14, paragraph 7, line 3 should read “particulate (particular) matter coming in large quantities, and is there any prohibition against (about) crushing on a”

Page 15, 7th paragraph from the bottom, lines 1 through 2 should read “Commissioner Zelek: So I would like to agree with Attorney Boorman that the intent of the ecologist being there would (will) be to identify situations such as our concern about dust (aware of that situation, such as dust).”

Page 21, Condition M. should read “The by-laws of the H.O.A. shall include....shall be submitted to the Commission for approval.”

Chairman Block said are there any errors or omission. Attorney Boorman no. You need a second.

Page 22, paragraph 1, line 1 should read "Chairman Block: Are there any discussion or amendments or omissions to them? Sorry to do this but I must. If you will look at F, small d."

Page 22, 8th paragraph from the bottom should read "Chairman Block: Wonderful, the motion passes. Thank you."

Page 22, 4th paragraph from the bottom should read "Chairman Block: You have accepted it and agreed to issue a permit for the project. All done."

Page 22, 3rd paragraph from the bottom should read "Multiple Commissioners (Commission): No, no, no, hold on."

Page 22, Insert new paragraph between paragraphs 2 and 3 from the bottom to read "Commissioner Clark: What?"

Page 23, 11th paragraph, line 4 should read "therefore, we should not be taking more than ({inaudible}) one vote, if the indication is that there was some"

Page 30, paragraph 2, line 5 should read "we had expected to rely on taking the REMA Report was rendered confusing to us, and how to interpret"

Page 30, paragraph 2, line 20 should read "stuck to, an which were presented with an application that we have the time, in their infinite (infinity)"

Page 30, paragraph 2, line 28 should read "the very last minute we betrayed our lack of legal training. We learned as we went, not until February"

Page 31, line 6 should read "wetlands. Because of the time constraints and because the public hearing is (was) closed, I had no"

Page 31, line 18 should read "herpetofauna population and subsequently its effect on the physical characteristics. The REMA requested"

Page 31, lines 24 to 31 should read "wish we could check (change) plants in the spring, not only the plants, but the herpetofauna was again a common theme. If we could see we could find out that there were maybe more threatened species than the swamp cottonwoods. On page 37 of REMA it states that " "subacidic is the key criteria in the DEEP definition of trap rock critical habitats, the citing was K. (Kay) Metzler, (Connecticut) www.cteco.uconn.edu. (at) Swamp cottonwood is just one of Connecticut's (Connecticut) rare species, but the composition (competition) of the plant community in and adjacent to (a) wetland 2 is not known, because it has not been inventoried during the growing season". Although our perview is not threatened species per se (so) although a threatened species (specie) is part of the habitat and is a physical characteristic as is this very"

Page 31, lines 39 and 40 should read "existence of any endangered or threatened species or result in the destruction or adverse modification of habitats designated (designed) as essential to such species, unless agency has"

Page 31, line 44 to 46 should read "change in (of) the conditions and coming late to the table. I think that we did not have the time to allow the science to be done right, we also learned too late that there are experts in hydrogeology (hydrology) of trap rock ridge whose opinions differ from those experts whose opinions seemed to have evolved during the course of"

Page 31, line 51 should read "not the time to go back into the lengthy (length) record and review it properly, especially considering we are"

Commissioner Zelek noted that that the time was 7:43 p.m. and that we started the discussion at 7:10 p.m. This represents a significant amount of time on this item.

Motion made by Commissioner Sadil to accept the minutes as corrected and was seconded by Commissioner Zelek. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Regular Meeting of February 19, 2013

Commissioner Zelek noted that in a memorandum from Chris (Greenlaw) to the Commission it states that staff reviewed the verbatim minutes of the March 19th meeting. Can you tell us what are you referring to? Mr. Greenlaw noted that he was referring to Application 2013-01 for Commerce Court. He proceeded to review the sequence of actions that were taken on the application (listen to audio tape for details of his remarks).

Commissioner Zelek noted that he was not inquiring on the action that was being taken but on whether or not there were verbatim minutes. If there are verbatim minutes, then why are we dealing with summarized minutes? Mr. Greenlaw responded that all Commission members have the same minutes. He noted that he had requested a portion of the minutes to be verbatim minutes and is before you.

Recording Secretary Peter Arbur noted that the portion of the verbatim minutes are not exact verbatim minutes, but the best he could do with the equipment that he had to work with.

Commissioner Zelek asked at what point do the minutes become verbatim? Mr. Arbur responded on Page 9 with the remark of Commissioner Igielski (third paragraph from the bottom of the page).

There was a general discussion on how to note the point in the minutes where the verbatim minutes begin and the qualifications of the content (listen to tape for details). The discussion ended as noted below.

Chairman Block noted that in the April 10th memorandum, the use of the word verbatim indicates that the contents on Pages 9, 10 and 11 were closely checked by the Town Engineer and Recording Secretary to be sure to the highest degree of accuracy possible are correct.

Commissioner Sadil noted that his name was spelled correctly in the roll call, but was spelled incorrectly (Sidal) through the remainder of the minutes.

Commissioner Igielski noted the following corrections:

- A. Page 4---Paragraphs 7 and 8 should read "Page 35 (53)".
- B. Page 10, Paragraph 1, line 1 should read "If it is determined that the activity is determined to have a significant impact on the wetland"
- C. Page 11, Paragraph 1, line 3 should read "2013-01 and the motion was seconded (was seconded) by Commissioner Sadil. There was no discussion."
- D. Page 13, Top of page, Question A., line should read "hydro-carbons, carbons, metals (medals) to include cadmium, chromium, copper and lead."

Commissioner Clark noted the following corrections:

- A. Page 8, line 10 from top of page should read "often is it mowed (wowed)? Mr. Bongiovanni responded the right of way is 150 feet wide and abuts the"
- B. Page 8, line 2 from the bottom of the page should read "Mr. Greenlaw noted that last year an application was submitted for Commerce (Commence) Court (for Big Sky)"

Motion made by Commissioner Igielski to accept the minutes as corrected and was seconded by Alternate Paskewich. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mr. Gary Bowles, 28 Burdon Lane read a prepared statement into the record (listen to audio tape for the full details of his remarks). The focus of his remarks was that the Town should retain a land use attorney (to include reasons why it should be done) to defend against Toll Brothers appeal of the Commission's decision not to grant a permit for its application to develop a portion of land abutting Russell Road (Cedar Mountain).

Mr. John Bachand, 56 Maple Hill Avenue noted that he supported the recommendation of Mr. Bowles. We support the difficult task that the Commission had and no matter what happens in the appeal, you did the best job you could.

ITEM V A

Application 2013-03, 40 Commerce Court

Mr. Greenlaw summarized the following sequence of events that occurred at last month's meeting relative to the subject matter which called for two (2) separate votes by the Commission:

- A. The first vote called for the Commission, acting as the Conservation component of the Commission, to vote on granting expressed consent to the applicant to install a directory sign within an existing conservation easement. The vote was 3 yes, 2 no and 1 abstention. The Internal Rules and Regulations of the Commission require 4 yes votes to pass. Therefore the motion failed.
- B. The second vote called for the Commission, acting as the Inland Wetlands and Watercourses component of the Commission, to vote on not requiring a public hearing in granting a permit to conduct a regulated activity (installation of a directory sign) within a regulated area (upland review area). The vote was 3 yes, 3 no. The motion failed because 4 votes were needed to pass the motion. Therefore, a public hearing would be needed on the application.
- C. He contacted the Town Attorney for guidance on the Commission's actions. The Town Attorney requested that verbatim minutes be provided in the area of the minutes where the votes were taken. The recording secretary was requested to provide such minutes within his capabilities. Following a review of the minutes and other information, the Town Attorney concurred that a public hearing should be held.

Mr. Greenlaw noted that he then called the applicant's representative and advised him that a public hearing would be held on the application.

Mr. Alan Bongiovanni, the applicant's representative, called back and advised Mr. Greenlaw that the application was being withdrawn and a new application would be submitted.

Mr. Greenlaw noted that a new application has been submitted and is before the Commission tonight.

Chairman Block noted that the materials (application) are not available tonight.

Mr. Greenlaw noted that the applicant's representative is not available tonight.

There was a general discussion among Commission members on the status of the new application.

The consensus of Commission members was that the new application represented the starting of a new process.

Motion made by Commissioner Zelek to table the application over to the May meeting and was seconded by Commissioner Sadil. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

ITEM VIA

New Initiative – Vernal Pools

Commissioner Zelek noted that there is nothing to report on the subject matter tonight. It is his plan to make a presentation at next month's meeting

ITEM VII

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Ms. Carol Budrejko, 55 Isabelle Terrace noted that she supports the Commission's action (on the Cedar Mountain application) and Mr. Bolles recommendation that a land use attorney be retained because we can't rely on general counsel who lacks the special expertise to represent the Town in this case.

Chairman Block noted that the item (Toll Brothers appeal) does not appear on the agenda because the matter is now in the hands of the Town Council. Your remarks on counsel should be directed to that body.

Mr. John Bachand, 56 Maple Hill Avenue noted that he heard the Commission discussing education on vernal pools. He recently did a video that can be seen on YouTube on an event that happens only once a year; when the wood frogs and beepers come out for their breeding. It can be found under "Sounds of vernal pools of Cedar Mountain, Newington"

Mr. Roy Zartarian, 27 Stuart Street said the he wanted to commend the Commission for its continuation of the public information program.

ITEM VIII

COMMUNICATIONS AND REPORTS

Duly Authorized Agent

Chairman Block noted that Mr. Greenlaw (with the completion of DEEP's Commissioner's Training Program) is now a full fledge Duly Authorized Agent.

Mr. Greenlaw recommended that all members of the Commission attend the (Commissioner's) Training Program.

There was a dialogue between Mr. Greenlaw and Commission members on the benefits of attending the program (listen to audio tape for the details of the dialogue).

Mr. Greenlaw noted that Mr. Craig Minor, Town Planner is now the acting Duly Authorized Agent and recognizing Mr. Greenlaw's completion of the Program has offered to a change of the guard.

Commissioner Igielski inquired if there was any interest in asking the Town Attorney if only one Duly Authorized Agent is allowed under the Regulations and can more than one can be seated?

Chairman Block noted that per Section 7 of Article 5 of the Commission's Internal Rules and Regulations allows for only one Duly Authorized Agent.

Commissioner Igielski noted that Section 12 of the Town Regulations only allows for one Duly Authorized Agent.

Commissioner Zelek recommended that the Commission move forward with the appointment of Mr. Greenlaw and also look into having a redundant agent.

Motion made by Commissioner Zelek to appoint Mr. Chris Greenlaw, Town Engineer, as the Duly Authorize Agent of the Commission and is replacing Mr. Craig Minor and was seconded by Commissioner Sadil. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Motion made by Commissioner Igielski to thank Mr. Craig Minor for his services to the Commission as interim Duly Authorized Agent and was seconded by Commissioner Zelek. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Internal Rules and Regulations

Motion made by Commissioner Sadil to table Item (Internal Rules and Regulations) over to the May meeting.

Commissioner Zelek ask why are we tabling the matter? Chairman Block responded that it refers to one (previously discussed item) and as Commissioner Igielski has pointed out the basic ordinance also refers to one. The Commission has expressed a desire to have Mr. Minor available as back up. Therefore, it would be appropriate for us to have direction before we attempt to vote on this.

Motion seconded by Commissioner Zelek. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Commissioner Sadil asked for an update on the Toll Brothers situation? Chairman Block responded that he has nothing new to report. He has asked the Town Attorney to provide Commission members with a copy of the appeal. He will also request that an agenda item next month to request the presence of the Town Attorney to provide an update on the status of the appeal.

Commissioner Clark requested that a copy of the corrected minutes be given to the applicant.

Commission went into recess at 8:45 p.m.

Commission came out of recess at 8:55 p.m.

Note: Commissioner Ancona left the meeting 8:45 p.m. and would not be coming back tonight.

Low Impact Development (added to agenda)

Motion made by Commissioner Zelek to table the item over to the May meeting and was seconded by Commissioner Sadil. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

Aquarion Water Company

Chairman Block read a letter from the Aquarion Water Company informing us of an Environmental Champion Award where a company or business would receive a \$2,500 award that has contributed to the improvement of our environment through the protection, restoration or stewardship of Connecticut's natural resources.

Commissioner Sadil noted that he was impressed with the Bonefish and Grill development.

Commissioner Zelek noted that the Commission should take the lead from the public.

Commissioner Clark noted that the Commission should involve the Chamber of Commerce.

Motion made by Commissioner Sadil to adjourn the meeting at 9:05 p.m. and was seconded by Commissioner Clark. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

Sincerely;



Peter M. Arbur
Recording Secretary

Commission members
Tanya Lane, Town Clerk
John Salamone, Town Manager
Town Planner
Councilor Myra Cohen
Councilor David Nagel
Chairperson, Town Plan and Zoning Commission
Peter M. Boorman, esquire, Town attorney
Chris Greenlaw, Town Engineer
Lucy Robbins Wells Library (2)