

**MADISON INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
September 12, 2016
7:30 PM – Meeting Room A – Madison Town Campus**

A regular meeting of the Madison Inland Wetlands Agency was held on Monday, September 12, 2016 at 7:30 p.m. in Meeting Room A, Madison Town Campus, with Robert Zdon presiding.

Members Present: Bob Zdon, Thomas Paul, Glenn Falk, Dave Newton, Lee Schumacher and.

Alternates Present: Kealoha Freidenburg, Joseph Budrow.

Members Absent: Barbara Yaeger, John Mathieu, Mark Ferris (alt).

Others present: Robert Kuchta, Inland Wetlands Enforcement Officer (hereafter IWO), Nicholas Zito (RWA Forester), Bruce Wilson (P&Z Liaison), Keith Ainsworth, Antonio Suppa, James Maynard, Brian Nesteriak.

Chairman Bob Zdon called the regular meeting of the Madison Inland Wetlands Agency to order at approximately 7:32 p.m.

PUBLIC HEARINGS: None.

REGULAR MEETING AGENDA ITEMS:

1) 16-15. West of Route 79. Owner: South Central Connecticut Regional Water Authority; Applicant: Nicholas Zito, RWA Forester. Proposed As-Of-Right activity under Sec. 4.1 of the Regulations to facilitate removal of remaining overstory trees for regeneration established during the 2005 harvest area west of Route 79, north of Goat Lot Road, and northwest of Pine Trail. This requires a stream crossing, outside the harvest area, for access to the landing area. **Jurisdictional Ruling.**

Nicholas Zito, RWA Forester, presented application 16-15, which seeks a Jurisdictional Ruling to deem the proposed silvicultural activities as an As-of-Right activity. Zito explained that the purpose of the proposed timber harvest is to continue a previously established forest management plan—a follow-up to a harvest that a previous forester had done in 2005. The plan involves removing the overstory to promote understory growth and regeneration of seedlings otherwise impeded by the canopy. Zito stated that the work would require crossing an ephemeral stream (currently dry).

- Zito presented the IWA with a map of the area to indicate where the harvest would be occurring.

- There was discussion about the purpose of the harvest, when it will occur (likely late spring/summer 2017). Zito stated there are no endangered species noted at the site, which would have restricted the timeframe of work. The previous harvest had come before IWA and had been approved as an As-of-Right Activity.

MOVED: By T. Paul, seconded by K. Freidenburg to grant approval of the Jurisdictional Ruling that application 16-15 is a Sec. 4 As-of-Right Activity. All members present voted in favor. **MOTION CARRIED.**

2) 16-16. Summer Hill Road – Lake Hammonasset Region. Owner: South Central Connecticut Regional Water Authority; Applicant: Nicholas Zito, RWA Forester. Request for approval of As-of-Right activity under Sec. 4.1 of the Regulations to facilitate removal of regressive and marginal trees occupying space in the canopy, which will provide more growing space for progressive growing stock east of Summer Hill Road and north of Route 80. **Jurisdictional Ruling.**

Nicholas Zito, RWA Forester, presented application 16-16, which seeks a Jurisdictional Ruling to deem the proposed silvicultural activities as an As-of-Right activity. Zito explained that the proposed activity would be a shelterwood harvest, a controlled harvest whereby select overstory trees are removed to allow for regeneration of seedlings. Zito stated that the DEEP identified several species of concern on the site (Whip-poor-will, wood turtle, and dark-bellied tiger beetles), so the harvest activity will be restricted to October 30 through April 1st. Some of the harvest may occur within the wetlands, but activity in those areas will be minimal, for multiple reasons including difficulty of maneuvering equipment in those soils.

- Zito presented the IWA with a map of the area to indicate where the harvest would be occurring.
- T. Paul stated that he is aware of a 4ft dbh white oak on the site, and questioned whether such a tree would be avoided in the harvest. Zito stated that his general practice is to leave large trees; not only do they serve as mast-producing “legacy” trees, but they are also difficult to cut and have little timber value. Zito ask T. Paul to describe the location of this tree, so he can make an effort to ensure its survival.
- There was discussion about the thinning and how the stands would be accessed. Zito stated that in concern for public safety, he will close the trails that run through the area.
- K. Freidenburg asked how close they will get to the wetlands. Zito stated that according to the statutes, forestry is allowed within the wetlands, however, he does try to stay out of them, as the soils are difficult to traverse with heavy equipment.
- Zito clarified that, in regards to the species of concern, the harvest will occur only between October 30th and April 1st (the wording on the application was difficult to ascertain). Zito said it was likely that the harvest would occur from October 30th, 2017 to April 1st, 2018.
- IWO Kuchta suggested that once the bidder is chosen, he would like to have an on-site meeting with both Zito and the successful bidder, to ensure that everyone is on the same page.

MOVED: By J. Budrow, seconded by L. Schumacher, to grant approval of the Jurisdictional Ruling that application 16-16 is a Sec. 4 As-of-Right Activity, with the following conditions: 1) the IWO is contacted for an on-site meeting with both Zito and the successful bidder, and 2) both Zito and the successful bidder adhere to the DEEP guidelines that the harvest is restricted to occur only between October 30th and April 1st. All members present voted in favor. MOTION CARRIED.

DISCUSSION OF CREAMERY LANE VIOALTION REMEDIATIONS

T. Paul commented that he is on the Land Trust Board, but did not feel this would sway his opinion in the matter either way. B. Zdon offered the present owners to comment; neither had any objection to T. Paul's participation. T. Paul did not recuse himself from the following discussion.

28 Creamery Lane.

Brian Nystrzak, professional engineer and land surveyor, presented the preliminary remediation plan on behalf of Antonio Suppa (owner), also present. The proposed plan involves hand-planting seventeen (17) trees, thirty-three (33) shrubs, and thirty-eight (38) non-woody perennial plants (ferns, grasses). A standard wetland seed mix was proposed to be used in the wetland (also to be sewn by hand). The existing stumps will remain, in an effort to minimize disturbance, however the old farming equipment will be removed. Four trees had been cut on Land Trust property; they propose to replace them.

- K. Freidenburg asked about the presence of invasive species. Brian stated that he did not have that answer; the landscape architect, who could answer that question, was not present.
- T. Paul asked if the proposed plan would be sufficient to stabilize the bank. Brian stated that it would.
- K. Freidenburg, in reference to note 15 on the plan, stated that the remediation should be monitored for a minimum of 3 years with 75% survival. J. Budrow mentioned that perhaps a bond should be paid to ensure compliance.
- K. Freidenburg asked if the plan was in keeping with the quantity and species that originally existed. Brian stated that they are proposing less trees, but more shrubs.

Keith Ainsworth, attorney representing the Land Trust, presented the IWA with an "intervention petition," which he explained serves only to formally interject the Land Trust into the remediation process, with equal standing. Keith discussed some of the Land Trust's initial concerns, including the appropriateness of the proposed standard seed mix, recreating the natural setting, and the potential for invasives.

- There was some discussion about whether this remediation should be viewed as a Regulated Activity (and therefore require a permit). The problem with requiring a permit is that it is a minimum 2-month process; it is imperative that the remediation be executed as soon as possible, as erosion is a major concern.

- Keith stated that the Land Trust wants to be sure that the remediation is the most appropriate, even if that means waiting a year. IWO Kuchta suggested that the IWA view the plan as two parts: 1) Land Trust property, and 2) private property. The IWA could approve the private property phase, in the interest of getting things moving. B. Zdon suggested that Keith work directly with the homeowners to come up with a mutually acceptable plan; they should aim to develop said plan in two weeks, so it can be submitted and reviewed by IWA members before the next meeting October 3rd.
 - This suggestion was agreed by general consensus of the IWA (exception J. Budrow, who felt the activity should require a Regulated Activity Permit).
 - Keith and Brian agreed to communicate with each other and with IWO Kuchta.
 - B. Zdon stated that the enforcement action will be continued to the next meeting.

34 Creamery Lane.

No representative was present. IWO Kuchta reported that he has yet to receive a response to his letters, including a certified letter.

36 Creamery Lane.

James Maynard, homeowner, was present but without a plan. IWO Kuchta had recommended that he attend the meeting and receive guidance from both the IWA and the Land Trust. IWO Kuchta stated that it is up to the IWA, but he would expect a formal site plan. There was some discussion about how the land on this parcel looked historically, and what changes have occurred since 2008 (year Maynard purchased property). B. Zdon stated that they need a plan. IWO Kuchta stated that he needs input from the Land Trust and suggested that they have direct communication. Both parties (Keith and Maynard) agreed. G. Falk stated that he expects all properties to be on the agenda next month.

SECTION 13 APPROVALS:

16-14. 14 Pond View Lane. Map 146, Lot 37. Owner/Applicant: Brian Urbowicz. Regulated Activity Permit to allow construction of an addition to dwelling within 100ft wetland review area.

16-17. 566 Boston Post Road. Map 38, Lot 127. Owner/Applicant: Helen Crowley. Regulated Activity Permit for installation of inground pool, septic system, addition to garage, and patio within the 100ft wetland review area.

16-18. 277 Bartlett Drive. Map 100, Lot 1/51. Owner/Applicant: William Carlson. Regulated Activity Permit for installation of an inground pool within 100ft wetland review area.

16-19. 693 Boston Post Road. Map 38, Lot 91. Owner/Applicant: Lina Dimasi. Regulated Activity Permit for replacement of septic system and construction of addition within 100ft wetland review area.

Robert Kuchta reviewed the Section 13 approvals.

APPROVAL OF MINUTES:

- Regular Meeting, April 4, 2016.
- Regular Meeting, June 6, 2016.
- Regular Meeting, July 11, 2016.

MOVED: by T. Paul, and seconded by L. Schumacher, to approve the minutes of April 4, 2016 as submitted. All other members present voted in favor. MOTION CARRIED.

MOVED: by B. Zdon, and seconded by T. Paul, to approve the minutes of June 6, 2016 as submitted. L. Schumacher and J. Budrow abstained. All other members present voted in favor. MOTION CARRIED.

MOVED: by T. Paul, and seconded by K. Freidenburg, to approve the minutes of July 11, 2016 as submitted. L. Schumacher and J. Budrow abstained. All other members present voted in favor. MOTION CARRIED.

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REMARKS:

Inland Wetlands Chairman: B. Zdon stated that they should have their attorney review the document submitted by the Land Trust attorney. G. Falk stated that the petition is likely legitimate and benign, but agreed that the Town attorney should make that determination.

Inland Wetlands Officer: IWO Kuchta recommended that the members read the CACIWC newsletter, particularly the article about farm exemptions and rulings.

ADJOURNMENT:

MOVED: By G. Falk, seconded by T. Paul, to adjourn at approximately 8:50 p.m. All members present voted in favor. MOTION CARRIED.

Respectfully submitted,

Shauna Dowd

*amendments to these minutes will be noted in future minutes.