

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 1 of 8**

Note: These are summary minutes. A tape recording of this meeting is on file in the Inland Wetlands and Watercourses Office, Wolcott Town Hall.

Chairman Garrigus called the meeting to order at 6:30 p.m., with the Pledge of Allegiance and attendance was taken.

Members Present: Mark Garrigus, Roy Balkus, Brian Lanese, Bill Harpin and Richard Tucker

Members Absent: Sam Zotto and Teresa Pineau

Alternates Absent: Ed Meyers

Alternates Absent: Teresa Northway and David Hamel

Also Present: Ray Rinaldi Jr. and Sr., Mr. Fusco and Bill Olmstead

Chairman Garrigus seated Ed Meyers as a regular member.

Approval of Minutes:

- Regular meeting on September 25, 2012

Upon **MOTION** by Richard Tucker, seconded by Roy Balkus, it was unanimously voted to approve the minutes of the September 25, 2012 Regular Meeting.

- Special Meeting on September 25, 2012

Upon **MOTION** by Richard Tucker, seconded by Roy Balkus, it was unanimously voted to approve the minutes of the September 25, 2012 Special Meeting

CORRESPONDENCE

Chairman Garrigus stated that he received a couple of letters tonight, at which time he read the letter from Gama into the read (see attached). He also stated that he has another letter from Michael Favreau of 18 Tosun Road who wishes withdraw his application (see attached).

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 2 of 8**

CHAIRMAN'S REPORT

Chairman Garrigus stated that they have five applications signoffs with no wetlands.

SUB-COMMITTEE REPORTS

There were none.

PUBLIC REQUESTS

There were none.

OLD BUSINESS

- Permit Application #12-013 - Sideline LLC, Lot 6 Beach Road, Wolcott, CT 06716. Emanuel Pitino & Ray Rinaldi, requesting a modification for a wall & drainage. Permit #07-006 expired on July 26, 2012.

After a brief discussion the following motion was made:

A **MOTION** was offered by Roy Balkus, seconded by Brian Lanese, to **ACCEPT WITH CONDITIONS** Permit Application #12-013- Sideline LLC, Lot 6 Beach Road, Wolcott, CT 06716. Emanuel Pitino & Ray Rinaldi, 18 Andrews Road, Wolcott, CT 06716, requesting a modification for a wall & drainage. Permit #07-006 expired on July 26, 2012 with the following conditions:

- 1) 15 feet added to wall to the south
- 2) Place Inland Wetland markers along the boundary of Lot #5
- 3) High Brush Blueberry and Sweet Pepper plants along Lot #5
- 4) Planting Plan for wetlands.

A roll call was taken and the MOTION passed as indicated below:

	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
Richard Tucker -----		X	
Roy Balkus -----	X		
Bill Harpin -----	X		
Brian Lanese -----		X	
Ed Meyers-----	X		
Mark Garrigus-----	X		

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 3 of 8**

- Permit Application #12-009- Michael Favreau, 18 Tosun Road, Wolcott, CT 06716, proposing to fill in the upland review area to create access to existing building.

Chairman Garrigus stated that they received a letter that the applicant has withdrawn his application. He noted that no further action is needed at this time.

Vice Chairman Tucker pointed out when Mr. Favreau resubmits his application he assumes that they will not charge him a fee again at which time Chairman Garrigus stated if it is a reasonable time frame.

Chairman Garrigus noted that Mr. Favreau has to have hydraulic calculation done. He added that this has not been done. He advised the commission members that he spoke to the town engineer to confirmed what the ordinance states and that's what he has to do.

New Business

There were none.

EXECUTIVE SESSION

There was none.

DISCUSSION OF MISC. MATERIALS, VIOLATIONS & COMPLAINTS

- 32 Town line road
- 36 Town line road

Mr. Fusco was present and stated that he has a new letter from Lenard Engineering at which time he submitted it for the record (see attached). He indicated that Berkshire Engineering wasn't able to obtain the necessary hydraulic calculations. He noted that this engineer is on top of it. He advised the commission that Mr. Olmstead installed the silt fence behind both lots. He stated that he is new at this and he wasn't sure how the process of the filing was done.

Chairman Garrigus said they requested the application to be filed. He also asked them how long this is going to take because this has been dragging on for months and months. Mr. Fusco stated that the letter says he is contacting FEMA and they will have it within a month.

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 4 of 8**

Chairman Garrigus noted that the flood map data is on line. He noted that they have access to it and it shows the elevations, so if he has been doing this he should know that for one. And time just keeps ticking on and the entire stuff is sitting there and I personally don't believe that it is going to pass. He noted that this has been going on since June, at which time Mr. Fusco said correct.

Vice Chairman Tucker pointed out since their last meeting they were assured that two things were going to be done.

1) They were going to install a silt fence around the entire area of fill, at which time Mr. Fusco replied it was.

2) That there would be an attempt to remove the material away from the watercourse so that there would be less opportunity for flooding, at which time Mr. Fusco stated that nothing has been brought onto the property, only taken off since they last met.

Chairman Garrigus inquired if the piles of stored material along the edge of river have been moved back. Mr. Fusco stated no, they have not been moved forward.

Vice Chairman Tucker stated that he believes it was Joey Olmstead who made that comment that he would make every attempt to immediately move what is closes to the watercourse which he choose not to do that.

Mr. Olmstead commented that he was at the last meeting and he doesn't remember him agreeing to move any dirt at which time Mr. Tucker said they could check the tape.

At which time Chairman Garrigus said that Joe Olmstead said he was going to pull it back because his concerns were it was piled right against the river.

Mr. Olmstead noted that what they did was protect the river from erosion. At which time Mr. Tucker said he is not interested; the answer is no.

At which time Mr. Fusco replied no it has not been move forward.

Vice Chairman Tucker acknowledged that they should act on this.

Chairman questioned if they had filled out an application, at which time Mr. Fusco replied Joe Olmstead has it and he is not here tonight.

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 5 of 8**

Chairman Garrigus said so they do not have an application, they haven't pulled any material back and they think that they will have something within a month.

At which time Mr. Olmstead inquired under what regulation states that they have to pull the piles back.

Chairman Garrigus stated under the town ordinance, it's not a regulation, its ordinance 94 "Flood Management" states that "Floodways- There shall be no encroachments, including fill, new construction, substantial improvements, and other development unless certification, **with supporting technical data**, by a registered professional engineer is provided demonstrating, **through hydrologic and hydraulic analyses performed in accordance with standard engineering practice**, that encroachments will not result in any **(0.00 feet)** increase in flood levels during the occurrence of the base flood discharge. **Fences in the floodway must be aligned with the flow and be of an open design**", so unless they think they are not in the floodway, but he believes they are because the floodway comes out past the river and if they look at the maps they will see that they are. He also indicated that they now in violation of the town ordinance, and they could be arrested for that.

At which time Mr. Fusco added that they could be fined a \$1,000.00 a day, which they are trying to avoid.

Chairman Garrigus also added if it is in the floodway and there is flooding FEMA can actually deny paying anybody that has flood insurance because the towns not doing their part. He added that he and Mr. Tucker heard that Joey said he was going to pull the material back away from the river so he wasn't in the floodway.

Mr. Fusco noted they have the necessary equipment and he stresses the greatness of the situation. He said he thinks they can leave here today and they could pull it forward if that will help.

Chairman Garrigus pointed out that they have been very easy on this thing.

At which time Mr. Olmstead said he doesn't understand what the big hurry is. He also stated that fuel is \$5.00 a gallon and he doesn't want to move it twice.

Vice Chairman Tucker said maybe you are not listening and the bottom line is they are in violation of a town ordinance and they are in violation of wetlands

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 6 of 8**

regulations what don't you understand is the hurry. He explained the hurry has been that this has been addressed since this past summer and nothing has been accomplished and they are dragging their feet. They expect results and that hasn't happened, that's the bottom line. He noted that the commission doesn't have to seat here and listen to your naiveté about that I don't know or what I do know, you are a contractor or if you don't know then you shouldn't be in the business.

Mr. Fusco said if they are willing to get a machine there tomorrow and pull the material forward would that help.

At which time Mr. Tucker said it would ease the pain but it is not going to change things. He also asked if he has permission to inspect the silt fence at which time Mr. Fusco said absolutely.

Mr. Balkus said start moving it tomorrow is not adequate. But he thinks moving it by Friday is ok at which time Mr. Tucker agreed.

At which time Mr. Olmstead said he is not going to do that, not even one yard of it. Mr. Olmstead stated that he wants to move the material one time when the plan is finished.

Mr. Harpin said even when they get the blue print no matter what. The piles cannot be there because it is in the floodway. Either way the piles have to be removed. And the counsel has been very patient but it getting worn out now.

Mr. Olmstead stated that he received a letter and he took a day off to visit the engineer.

Mr. Harpin said the issue is that the town is in violation at which time Mr. Olmstead said he has letter from FEMA which he explained what he is doing and they said that the town is not even close for not being eligible for flood insurance.

Mr. Fusco explained to Mr. Olmstead that they have to do what the commission is asking for.

Mr. Olmstead said he doesn't know where the floodway is at which time Chairman Garrigus stated that it is not up to them to determine how far they have to move it. He also noted that the material has to go and it has been long enough.

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 7 of 8**

Mr. Fusco asked the commission members if they could have until Friday October 26th. He noted that the silt fence is stalled and they are meeting with the engineer on Friday.

Chairman Garrigus said he is looking for a motion that if the piles are not moved by October 26th then they will turn this over to the town attorney and it is a \$1,000.00 day and he noted that they are in violation of ordinance 94 section 3.6.

Mr. Olmstead asked if he has to move the material out of the floodway at which time Chairman Garrigus replied yes.

Mr. Olmstead advise the commission that his engineer interpretation is that they are able to have dirt in the floodplain, not in the floodway.

At which time Chairman Garrigus stated that FEMA says they cannot place anything in the floodway. He also added that FEMA says that they cannot do anything within a floodplain to change the elevations. He added that maybe it won't change the elevation but Planning and Zoning regulations state that no stockpiling material in the floodplain "Section 41.5.9" (see attached). He stated that they will take care of their stiff. He also stated that they have to get their engineering done so they can figure out what they are doing.

Vice Chairman Tucker said for clarification, they are moving the material from the floodway to the floodplain and if not. Chairman Garrigus said they are in violation.

Mr. Olmstead said he wants to talk to the engineer first before he doesn't anything at which time Chairman Garrigus this has been going on too long. He advised Mr. Olmstead that they were supposed to file a site plan application which would of took them through the process which they never did and that's where they are now. He also added when he looked at the site application he had to deny it because it was incomplete. He noted that he was receiving complaints and that's why he had to send them a violation letter and that's how this developed. He also pointed out that they that would like this taken care of.

Chairman Garrigus notify the commission that he will be out of state at which time he asked if the commission members could visit the site on Friday October 26th at which time Vice Chairman Tucker said he would.

Mr. Olmstead pointed out that he cannot move that material by Friday.

**INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING – OCTOBER 23, 2012
WOLCOTT TOWN HALL, COUNCIL CHAMBERS
MINUTES 6:30 P.M. PAGE 8 of 8**

At which time the following motion was made.

Upon **MOTION** by Richard Tucker, seconded by Roy Balkus, it was unanimously voted that the loam will be pulled back 25–30 feet whatever it takes to get it on 36 Townline Road to get it out of the floodway. On 32 Townline Road the shot rock will be pulled back as much as possible by Friday and that if no major effort is made it will be turned over to the Town Attorney to handle \$1,000.00 a day and the enforced ordinance 94 “Floodplain Management”.

ADJOURNMENT

Upon **MOTION** by Bill Harpin, seconded by Roy Balkus, it was unanimously voted to adjourn at 7:15 pm.

APPROVED:

**Mark Garrigus– Chairman
INLAND WETLANDS COMMISSION**

**DOLORES DISTISO
COMMISSION SECRETARY**