

Town of East Haven, CT
Inland Wetland and Watercourse Commission
Minutes
Jan 14, 2015

Richard Poulton called the meeting to order at 7:10 PM

1. Roll Call- Richard Poulton, Eric Warmoth and Ronald Andrade were in attendance. Also in attendance was Commission Attorney Al Zullo and Town Engineer Kevin White.

Mr. Poulton asked for a motion for Mr. Andrade to move from alternate commissioner to commissioner for the purpose of this meeting. A motion was made by Mr. Warmoth and seconded by Mr. Poulton. All were in favor-motion carries.

2. Approval of Minutes from Oct. 8, 2014

A motion was made by Mr. Warmoth and seconded by Mr. Poulton to approve the minutes from the Oct. 8, 2014 meeting. All were in favor, motions carries.

3. Old Business-None

4. New Business-None

5. Enforcement:

14-02 N.O.V.(07-09-14) 95 Warner Rd
14-03 N.O.V.(07-15-14) 95 Warner Rd
14-04 N.O.V.(08-12-14) 95 Warner Rd
14-05 N.O.V (08-13-14) 95 Warner Rd

Mr. Poulton stated that there were 4 separate NOV's filed for above mentioned property on the above dates. Attorney Timothy Lee spoke on behalf of his client, Mr. Bracale, who was also in attendance. Attorney Lee stated that prior issues on the site had been resolved and that the town has sent a letter to the homeowners stating that sedimentation and erosion controls were in place and they were not in violation on July 8, 2014. He stated that the rain events of July 9th were an act of God that caused the sedimentation and erosion controls ,that were in place on July 8th, to fail. The homeowner was penalized in April, was responsive and paid the fines levied. He also complied with installing the sedimentation and erosion controls. There was no violation. Mr. Poulton noted that after the rain event on July 9th, the sedimentation and erosion controls were

not properly maintained. There was some discussion regarding the dates that the homeowner had the top fill brought in. Mr. Bracale stated he brought in the topsoil in August. Mr Poulton showed the photos from July 22nd that clearly showed that the top soil was present. Attorney Lee argued that the NOV from July 9th should be withdrawn since it was the rain on the 9th that caused the controls to fail. Mr. Warmouth and Mr. Andrade stated that it was the responsibility of the homeowner to maintain the controls after the rain event of July 9th. Attorney Zullo noted that the maximum fine exposure for these NOV's would be \$4000. He recommended that the commission vacate the NOV of July 9th and make an offer to resolve the other three NOV's. If they did not do this, the next step would be a hearing.

Attorney Lee requested a moment to confer with his client.

Attorney Lee stated that Mr. Bracale would offer to pay a fine of \$1500, without admitting liability, and that the NOV's would be removed. Attorney Zullo stated that the commission could accept this offer or this matter would go to a hearing and/or court case which come with attorney's fees. He noted Mr. Bracale's humbleness with the matter. He recommended that the commission continue the matter for 30 days and if the payment had been made, all NOV's be removed. Mr. Poulton thought that with the 5 NOV's for this property the fine should be \$2000. Mr. Bracale stated that his offer was for \$1500. Mr. Warmouth made a motion to accept the offer of \$1500 payable within 30 days, with all NOV's being removed. The motion was seconded by Mr. Poulton, all were in favor. Motion carried.

6. Other Business

7. Communications. Mr. Poulton had a copy of a letter that he sent to Mayor Maturo requesting that the current vacancies on the commission be filled and that Mr. Andrade be moved from alternate to a regular member.

8. Comments from members- Mr. Poulton again requested reimbursement of \$120 for the supplies and ink he purchased.

A motion was made at 7:50 by Mr. Andrade to adjourn, seconded by Mr. Warmouth. All were in favor.

Respectfully submitted,

Kristen Vineyard, Clerk

