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APPROVED ON 5/12/2021

**TOWN OF EAST HAVEN
INLAND WETLAND AND WATERCOURSE COMMISSION
MINUTES OF REGULAR MEETING
APRIL 14, 2021
HELD VIA VIDEOCONFERENCE AND CONFERENCE CALL**

Chairman Gerald Jaffe called the regular meeting to order at 7:00 p.m.

I. He then called the roll for the Board as follows:

Wendy Bellmore - Present
Rick Raffone - Present
Richard Poulton - Present

Also in attendance:

Jennifer Coppola - Counsel to the Board
Jonathan Bodwell - Town Engineer
Kevin White
Niki Whitehead
Matt Longobardi

II. Pledge of Allegiance was recited by all.

III. Election of Officers

Mr. Jaffe shared his desire to say a few words regarding the election and then perhaps get some input.

As those who have served on this Commission alongside of me know, I am a proactive individual whose strengths lie with solving problems and getting things done in the most efficient and expeditious way possible -- a few might even say in an unorthodox fashion.

I feel as though this Commission has come a long way from when I took over as Chairman to today where it is running rather smoothly. People have more of a say and now have the full support of the current Administration., Town Attorney Mike Luzzi and a proficient, dedicated attorney Jennifer Coppola, who is very experienced in wetlands business and works hard for the Town and this Commission.

In short, after several terms as your Chair, I am comfortable passing the gavel to the next Chair which in part will afford me the necessary time to spend on other pressing issues. Thank you for that opportunity and I look forward to continuing to serve on this Commission.

With that said, might I suggest that we move the election of Chair and Vice Chair to the end of this meeting as I've done in other government-run commissions, councils, and boards; so as to give the newly elected officers the opportunity to orient themselves and come up to speed in time for the next regularly scheduled meeting. Do I hear a motion to that effect or any comments?

Richard Poulton makes motion to move the election to the end of the meeting.
Rick Raffone seconded the motion.

Hearing no discussion, the motion passed unanimously.

Richard Poulton made a request to add an item to the New Business on the agenda. Mr. Jaffe states it could go under Old Business.

Attorney Coppola, having had difficulty getting into the meeting, logged on.

Attorney Coppola addressed Richard Poulton's request. She noted the meeting was already opened at this point. She heard Mr. Poulton express his wish to amend the agenda to add an item under Old Business. She explained that this is a regular meeting, so you can amend your agenda, but I think it needs to be with more specificity, Mr. Poulton, what you're looking to amend the agenda with so that the folks on the Commission that do not understand what you're talking about have some idea what you're looking to amend the agenda with.

Mr. Poulton addressed Chairman Jaffe regarding application 12-01, 97 Wheaton Road. It's due to expire on 9/6/2021. I want to get that on the record. Mr. Poulton said he spoke to the Town Engineer about it a couple of weeks ago. It's also an old application made by the same applicant as Borelli Road that we need to get some clarification on.

Attorney Coppola inquired as to what the item was he is looking to add exactly.

Mr. Poulton replied just to get on the record that it's due for expiration and I think the applicant should be notified of that. The ten years are about to expire.

Attorney Coppola suggested Mr. Poulton put on the record a discussion regarding whether correspondence should be sent to the applicant on the particular application number and address and that he should make a motion.

Mr. Poulton makes a motion to amend the agenda to include application 12-01, 7 Wheaton Road and Borelli Road. Mr. Raffone seconded the motion.

Attorney Coppola commented that based on this is ten years due to expire, understanding the regulation this would just mean this property owner would need to come in with a completely new proposal.

Motion to amend agenda passed unanimously.

IV. Approval of the minutes of December 9, 2020.

Did anybody or everybody have a shot to listen to them since they are only recorded and we don't have a hard copy?

Attorney Coppola apologized for not including the written copy of the minutes in the packet she sent out which included the agenda. She wanted to send them out Friday night and omitted including the written copy of the minutes. She asked they wait until next month to act on them, because you should have a written copy of them. Mr. Jaffe asked Attorney Coppola if she had a hard copy with her and she replied no, because she was not in her office.

Mr. Jaffe made a motion to waive the approval of the minutes from the last meeting to the next meeting. Richard Poulton seconded that.

Motion passed unanimously.

Mr. Jaffe explained we moved the election of officers to the end of the meeting to give new individuals an opportunity to get up to speed.

V. New Business

Application 2021-1, Application for Permission to Conduct A Regulated Activity Within An Inland Wetland or Water Course Area for property known as 101 Frontage Road (MBL 260/3210/002); Owner: Frontage Road Development Corp; Applicant: Thomas Hennessey; Project Title: Tree and Debris Removal.

Mr. Jaffe asked if there were any questions. Hearing no response, he called on Mr. White to make the presentation.

Kevin White, professional engineer, explained the application is for the removal of trees and debris on 101 Frontage Road. The applicant Mr. Hennessey would like to both clean it up and make it a little more presentable. Mr. White presented the application for the Commission's review. The drawing was placed on the screen.

Attorney Coppola made some introductory comments. She addressed the Commission regarding what is being proposed. She told them that they need to determine whether or not what's being proposed presents significant activity and whether it's appropriate for public hearing. That's always your initial determination (Section 9.1). The project is for tree and debris removal and she suggested the Commissioners begin discussions at that starting point.

Town Engineer Mr. Bodwell said he had seen the property and commented that the property sorely needs that attention. Mr. Bodwell clarified the term debris with Mr. White. Mr. Bodwell asked Mr. White how far into the wetlands they were proposing to go. Mr. White replied no more than twenty to twenty-five feet in. He referred to the photo. When asked how the debris would be removed, he replied no machinery in the wetland whatsoever. Mr. Bodwell said if they use a little machine, the machine should stay on the upland side of the plot. Mr. White agreed.

Mr. Jaffe asked if there was any other discussion on that. Mr. Poulton said, basically, there are two issues going on here. We have activity in the upland review and some limited activity in the actual wetland itself. Mr. Poulton, personally, has a problem with the upland review, because that had no bearing or significant impact to the adjacent wetlands. The two areas actually in the wetlands are a clump of trees that need to be removed, assuming that will be brought down to the stump and leave it there. Mr. White agreed that there is a note with the application indicating such. Mr. Poulton inquired who did the soil testing? Mr. White responded New England Environmental Services. They did that in 2019. Mr. Poulton inquired if they submitted soil analysis in their survey back in 2019? Mr. White replied they did not. Mr. Poulton stated he was asking because this will go forward to something else and he assumes Mr. White will be the engineer for the next project and wanted to know viability or the environmental value of the actual wetland soils down the road. Mr. White replied there will be a report ready when they come back again, but at this point, this application did not call for it. Mr. Poulton understood.

Mr. Jaffe asked if there were any more comments.

Ms. Bellmore spoke to Mr. Poulton regarding decisions to be made when they actually are taking down the pre-existing building and doing some other kinds of development from the property.

Mr. Poulton expressed that his concern is about the activity that could potentially be in the wetland area. As of now, there is no activity; just to remove the debris and some trees.

Ms. Bellmore stated she had the opportunity to go out and look at the property with Mr. Bodwell and to speak with the representative landowners and look at the actual needs there. She indicated she saw nothing that is going to be saved substantively that is going to make a difference with this property and the trees that need to come down do need to come down. She indicated they are in bad shape and are being choked out by invasive species that have taken the trees to a level where they are not viable. The material in the water and the water itself and in the wetland is creating an environment where it is more damaging than if it's removed.

Mr. Jaffe asked if there are any other comments. Hearing none, moving on to B. Mr. Bodwell indicated he had no new business to report.

VI. Old Business

- A. Application #2021-1, Application for Permission to Conduct A Regulated Activity Within An Inland Wetland or Water Course Area for property known as 101 Frontage Road (MBL/ 260/ 3210/ 002): Owner: Frontage Road Development Corp.; Applicant: Thomas Hennessey; Project Title: Tree and Debris Removal.

Mr. Jaffe asked for a motion to accept application 2021-1, 101 Frontage Road.

Mr. Poulton made motion to accept it as submitted.

Mr. Jaffe asked if there was any discussion.

Attorney Coppola asked for clarification as to whether the condition proposed by the Town Engineer that all work will be done by hand in the wetlands area; that no machinery will be used in the wetlands at all was part of the motion.

Mr. Bodwell clarified that he doesn't want the machines to cross the wetlands line. He said he had no problem if that machine reaches out and grabs something out of the wetlands as long as it is done properly.

Mr. Jaffe asked if there were any other comments. Let's put this to a vote. Richard Poulton made a motion to approve with the condition proposed by the Town Engineer. Rick Raffone seconded.

Motion passed unanimously.

B. Application 12-01, 97 Wheaton Road and Borrelli Road.

Mr. Jaffe opened discussion of 97 Wheaton Road, application 12-01. Mr. Poulton stated that this was in court for years and finally was accepted and the expiration date actually happens on September 6, 2021. He stated that the permittee, Pat Clemente, has passed away. The LLC is being run by his daughter Rose at the same address in West Haven. Mr. Poulton requested she or whoever is in charge of this LLC be notified of expiration date to avoid starting from square one. Mr. Bodwell said he looked up the applications for both properties and found it confusing but would look into it for the next meeting. Mr. Poulton inquired if notice could be sent with regard to this application expiration date. Mr. Bodwell stated he will notify the applicants even though it's the applicant's responsibility to know when, but if the Commission so desires, he will do his best to try to figure out what's going on. Mr. Bodwell suggested it be tabled until May.

Wendy Bellmore inquired of Mr. Poulton as to how this came across his desk ten years later or did someone who is not the property owner raise this issue. Mr. Poulton responded no. I was the vice-chair when these two property applications were approved. I'm very familiar with them and with Pat Clemente. Sorry he passed away in 2019, but because someone has passed the owners of the property, which is the estate, may not be aware of what's going on. That's why I requested they be notified by the commissioner or the engineer of the status of those applications.

Wendy Bellmore inquired of Attorney Coppola if this would set a precedent since it's not in the purview of the Commission to notify the original applicant, would the Commission be put in a place where it would have to notify everyone?

Attorney Coppola responded that she does not think it would set a precedent. As Mr. Bodwell said that is not something that we typically do. It is the applicant's responsibility to know what the statute says. Attorney Coppola said that she will assist

the Town Engineer in looking into it. Given the fact that there was a death and so forth, I think that it is okay.

Richard Poulton stated that we have done this as a courtesy for the last twenty-some-odd years, just to let the applicant know what's going on.

Attorney Coppola stated she has sent those types of notifications in some instances, again not in this context, but I've done notifications where we're advising somebody that something needs to occur or is going to occur. I indicated in that correspondence that it doesn't convey any additional legal rights to the person and I will share that language with Mr. Bodwell.

VII. ENFORCEMENT ACTION

A . 1309 North High Street

Mr. Jaffe asked for a status update if there was one available.

Kevin White responded that he was able to reach the applicant this morning after several attempts. Applicant indicated she is in the process of talking to her contractor. I said I would like to be able to meet him. I plan on doing that next week. I also am going over to Van Wilgen's tomorrow on other business, but I will give them the planting list and they also install. I will have a number as to how much this activity will cost and we'll have it for the end of next week.

Mr. Jaffe asked if the Commission would have it in time for next meeting. Mr. White indicated as soon as he receives information, he will get it to Mr. Bodwell. He can reach out to the Commission.

Mr. Jaffe inquired of Mr. Bodwell and Mr. White if a fifty-foot protective buffer abutting the wetlands was encroached and wetland vegetation along the dividing line was removed and then fill and gravel was laid and then leveled; this was deemed a violation by the previous Town Engineer and a cease and desist was issued. The current Town Engineer indicated that this was not within wetland jurisdiction. Mr. Jaffe asked for an explanation.

Mr. Bodwell inquired as to which properties are being referred to?

Mr. Jaffe stated Diamond Marina.

Attorney Coppola stated we are talking about 1309 North High Street.

Mr. Poulton stated he had a totally different question --

-- Attorney Coppola stated we are not done with 1309 North High Street yet. My recollection is that the work at 1309 North High Street was supposed to be completed by April 30th. I think we're hearing that that's not going to happen because --

-- Mr. White stated I would ask, if there's a question as to the 100 percent viability of that happening; I would ask tonight that an extension be granted for thirty days.

Attorney Coppola checked the Notice of Decision that was posted and there was a condition that the work proposed be completed by April 30th and property owner to return to the Commission in the event that any extension to complete the proposed work was needed.

Mr. White asked for thirty-day extension.

Mr. Raffone asked whether Mr. White was looking for a motion from the Commission to extend that deadline.

Wendy Bellmore stated the difficulty in communicating with this applicant/homeowner is a concern. She stated she just doesn't understand and at what point will it end. She asked why such a simple project keeps coming back to the Commission.

Mr. Poulton responded that today is April 14th and she still has two more weeks. It could still be done in time. It doesn't have to be finished by April 30th. Let's give it until April 30th before we take action.

Attorney Coppola stated the decision was that the work needed to be completed, not commenced, but completed by April 30th.

Mr. Poulton replied still we have two weeks. If April 30th comes and goes, then we have to deal with it at that time.

Mr. Jaffe asked Mr. White if he had a comment. Mr. White said he didn't but added the project could be completed in two days and he would have more information next week.

Mr. Poulton noted there could be a maximum fine of a thousand dollars a day by statute.

Mr. Jaffe brought up again other property he mentioned earlier.

Mr. Bodwell stated that wetlands were flagged from reports that he had read, they are tidal wetlands which is out of jurisdiction. Tidal wetlands, by State statute, you can work right up to them as long as you do not cross into tidal wetlands.

Attorney Coppola clarified what property has been discussed in the last exchange. The comments just made after the discussion regarding 1309 North High Street is Diamond Marine.

Mr. Jaffe stated they were talking about encroachment in the 50-foot buffer zone, filling it in, removing some of the vegetation in the wetlands and that was the key right there. This is what the cease-and-desist order was finally issued for. Although this would be a

violation, it's a violation outside of our jurisdiction. Mr. Jaffe asked Mr. White to comment and Mr. White said he was not going to comment.

Mr. Bodwell asked why this was being raised.

Attorney Coppola stated Diamond Marine was talked about before and the prior Town Engineer gave you the same opinion he just gave to the Commission before that it's tidal wetlands. She asked why we are revisiting this because staff needs to understand.

Mr. Jaffe replied this has nothing to do with Diamond Marine as opposed to the issue itself and two opposing views. What I was trying to do was reconcile those two opposing views, because sooner or later it's going to come before the Commission again.

Mr. Jaffe stated we are through with enforcement.

VIII. CORRESPONDENCE

A. Correspondence from Matt Longobardi.

Mr. Jaffe spoke to the correspondence that was received. He requested Mr. Bodwell's input as to whether an application is going to be warranted or not.

Mr. Bodwell replied that per the Regulations, Section 4.1.D, his interpretation would be that if they wanted to trim that brush back up to the fence, they should be able to do that without a permit.

Mr. Jaffe asked what if they wanted to go over that and cut it back a bit without going over the fence would that need an application?

Mr. Bodwell replied he doesn't know exactly where the wetlands line is. If they wanted to expose the fence on both sides without bringing any machinery in there, he thinks that would be fine.

Attorney Coppola suggested to have the clippings hand-removed and bagged and carried away so that if there's anything that's of an invasive nature, the clippings aren't being dropped. That's something that is typically done in these circumstances.

Mr. Raffone made a motion to act on the recommendation of the Town Engineer. Mr. Poulton stated there is no application, so motion is not required at this stage.

Attorney Coppola stated Mr. Bodwell should have some communication with Mr. Longobardi with regard to it. You would be authorizing Mr. Bodwell to just communicate that and give Mr. Longobardi some guidance as to how it should occur.

Rick Raffone made that motion to authorize Mr. Bodwell to do that. Mr. Poulton seconded the motion.

Motion passed unanimously.

B. Correspondence from Bob Sand regarding his concern about runoff.

Wendy Bellmore inquired what area is being referred to. Mr. Bodwell replied Mr. Sand did not identify anything other than what is in his e-mail. Ms. Bellmore stated her question was is this the Camp Murray property that is in such heated debate right now? Mr. Jaffe replied he assumed so, but he had not had any further communication with Mr. Sand about it. Mr. Bodwell said he believes it's the 26-acre lot that is up on Thompson Street, and until we get an application, there's really nothing much we could do. He stated that he thought Mr. Sands' e-mail was basically asking us that when this does occur that we take a close look at it. Mr. Jaffe agreed. Ms. Bellmore stated that this is just a heads-up then. Mr. Bodwell stated that this has been inactive since he was here, but he will keep an eye on it.

Mr. Jaffe inquired about any further correspondence and received no reply.

III. ELECTIONS

Mr. Jaffe asked for nominations for chairperson.

Mr. Poulton inquired whether Mr. Jaffe was standing down and he replied yes. Mr. Poulton thanked him for all of his good work. Mr. Jaffe thanked him. Mr. Jaffe noted what a good job Attorney Coppola is doing and good support from the administration. Mr. Raffone thanked Mr. Jaffe for the good job he has done.

Mr. Jaffe nominated Richard Poulton.
Mr. Raffone seconded the nomination.
Richard Poulton accepted the nomination.

Attorney Coppola did a roll call:
Gerald Jaffe - Aye
Rick Raffone - Aye
Wendy Bellmore - Yes.
Richard Poulton - Yes.

Attorney Coppola thanked Mr. Jaffe for having the Town's best interests at heart and expressed her gratitude for his service. She then asked Mr. Poulton to take over and ask for a nomination for a Vice-Chair as the new Chair. Mr. Poulton thanked the Commission.

Mr. Poulton nominated Rick Raffone for Vice-Chair.
Mr. Jaffe seconded the nomination.

Attorney Coppola did a roll call:
Richard Poulton - Yes.
Gerald Jaffe - Yes.

Wendy Bellmore - Yes.
Rick Raffone - Yes.

Mr. Poulton inquired of Attorney Coppola as to whether Wendy Bellmore was appointed as a full commissioner or if she was still an alternate.

Attorney Coppola stated she has been appointed and her effective date was February 1st. Mr. Poulton thanked Wendy Bellmore and wished her luck.

Mr. Jaffe made a motion to adjourn. Mr. Raffone seconded the motion. Hearing no objection, the meeting adjourned at 8:07 p.m.

Respectfully submitted,

Genevieve Bertolini