

**CORNWALL INLAND WETLANDS AND WATERCOURSES AGENCY
MINUTES OF THE REGULAR MEEETING SEPTEMBER 6, 2022
CORNWALL TOWN HALL MEETING ROOM**

Present: Regular members D. Stevenson Hedden, Alan Bahn, Debby Bennett, Peter Demy and William Hurlburt, Alternate member Jeffrey Morgan and IWWEO Karen Griswold Nelson.

Chairman D. Stevenson Hedden called the meeting to order at 7:05 PM with a quorum established.

APPROVAL OF MINUTES: August 2 regular meeting minutes

Motion made by Mrs. Bennett, seconded by Mr. Morgan to approve the minutes of the August 2nd regular meeting as presented: unanimously approved.

NEW APPLICATIONS/PETITIONS FOR DECLARATORY RULINGS

App#663 – David Duffee and Livia Corredor MODIFIED – property owners/Narrow Valley Masonry applicant – Repair to an existing dam and relating masonry work – 6 Valley Road.

Note was made of the special site walk meeting that preceded the regular meeting (All members listed were in attendance at the special meeting.)

Discussion ensued as to the Application submitted (for regulated activities) constituting a Petition as a Declaratory Ruling as relating to the State of Connecticut Inland Wetlands and Watercourses statutes, The discussion was related to the 2011 statutory change to allow activities associated with fire protection as stated in Sec. **22a-40. Permitted operations and uses. (b) (3)** The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, “dry hydrant” means a non-pressurized pipe system that: (A) Is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water. It was noted that the Cornwall regulations, as adopted in 2011, allowed the Agency to impose conditions. Recommended conditions listed by chairman Hedden were made of the motion for approval. Accordingly,

Motion made by Mr. Hurlburt, seconded by Mrs. Bennett, that the **App#663** constitutes an As of right activity as per Section 22a-40 b-3 with the following conditions:

1. All paperwork from the project engineer shall be filed in the Land Use Office and available for review by all Commission members prior to the start of any work. All concerns and questions shall be satisfied prior to the start of any work.
2. All erosion and sedimentation controls are to be installed prior to the start of the construction and the E&S controls are to be inspected by the Inland Wetlands Enforcement officer/ZEO prior to the start of work.

3. The name and telephone number of the persons or entity responsible for the erosion and sedimentation control measures is to be provided and made part of plans on file.

Motion unanimously approved.

App#664 – Beverly Daniel Evans owner/applicant – maintenance of an existing “silting pond” – 146 Cornwall Hollow Road.

With note made by staff that the Application for Regulated Activities had been submitted instead of a Petition for Declaratory Ruling and so to not delay the start of work, the application had been added to the agenda as submitted. With agreement that the work constituted the same work that had been approved in previous applications.

Motion made by Mr. Hurlburt, seconded by Mrs. Bennett, to determine that **App#664 – Beverly Daniel Evans owner/applicant for maintenance of an existing “silting pond” – 146 Cornwall Hollow Road constitutes as “Use as of right” for maintenance of existing storm water management ponds**, as per the oral and written testimony of the applicant and the site plan submitted (with the standard conditions)

1. The Land Use office shall be notified prior to the start of construction.
2. All erosion and sedimentation controls are to be installed prior to the start of the construction and the E&S controls are to be inspected by the Inland Wetlands Enforcement officer/ZEO prior to the start of work.
3. The name and telephone number of the persons or entity responsible for the erosion and sedimentation control measures is to be provided and made part of plans on file.

Motion unanimously approved

**PENDING APPLICATIONS/PETITIONS FOR DECLARATORY RULINGS
INLAND WETLANDS OFFICER REPORT.**

App#662– Michael & Marilyn Carano – Creation of a pond – 15 Swifts Bridge Road

Information made part of the record at the August meeting

Application with supporting information

Mr. Carano was in attendance to represent the application. With note made that most Agency members had not visited the site, Mr. Carano gave an overview of the proposed work. Griswold Nelson addressed her conversations with the applicant after her site visit and the lack of information and plans in the file that supplied the necessary details for the Commission to act on the application. There was general discussion with agreement that Mr. Carano should seek additional information from contractors capable of doing the work and withdraw the current application and re-submit with the necessary information. Accordingly, the application was withdrawn.

PDR-06-2022 – Town of Cornwall applicant/owner – Repair to a deteriorating wooden bridge – Fox Road.

There was general discussion regarding the matter with Griswold Nelson stating that she had contacted the DEEP regarding concerns expressed by the Commission at the August meeting as to fish habitat and appropriate design features. Stating that the DEEP fisheries division contact, Matt Glokowski, indicated that there was no evidence of fish habitat on file at the DEEP and had outlined various scenarios to move forward including engineering

designs and review by the DEEP. With suggestions that the consideration was not the intent of the Agency, Griswold Nelson addressed conversation regarding previous recommendations made by former IWWA member Roger Kane to highway supervisor James Vanicky regarding the design for repair of the deteriorating structure. Based on questions raised regarding the authority regarding design and road standards (weight limits etc.), discussion of the agenda item/application was to be continued with additional information brought back to the Commission by Griswold Nelson

ENFORCEMENT ACTIONS:

Notice of Violation/Cease and Correct – Dark Entry Forest Inc/ property owner and Anthony Macchiaroli /non-property owner for work within regulated areas without permits – Cook Road.

Information made part of the record.

September 5, Email from Dark Entry.

Dear IWWA,

We write to provide a brief update concerning the lawsuit captioned *Macchiaroli v. Greco, et al.*, Dkt. No. LLICV215013836S (Conn. Super. Ct., J.D. of Litchfield at Torrington). On August 12, 2022, the Court (Moore, J.) issued a Memorandum of Decision granting Defendants' motions for a temporary injunction and denying Plaintiff's motion for a temporary injunction. We previously provided a copy of the Decision to the IWWA on August 16, 2022. For your convenience, attached is a copy of the Decision.

The Court "precludes the plaintiff from (1) entering Dark Entry Forest's property situated on and along Cook Road, (2) continuing to damage Dark Entry Forest's property in an illegal attempt to alter Cook Road and (3) continuing unpermitted work within areas regulated under the Inland Wetlands and Watercourses Act." See Decision, p. 25.

We will continue to vigorously prosecute and defend our interests in this litigation. With the IWWA's permission, we would like to maintain the Erosion and Sediment Control measures undertaken last year and remove any fallen trees from Cook Road for emergency access.

Thank you for your patience, David Colbert, President, Dark Entry Forest, Inc.

And 9/05/2022 correspondence prepared by Karen Griswold Nelson and sent to Dark Entry and copied to the Commission.

After brief discussion,

Motion made by Mr. Demy, seconded by Mr. Morgan, that the **Notice of Violation/Cease and Correct – Dark Entry Forest Inc/ property owner and Anthony Macchiaroli /non-property owner for work within regulated areas without permits – Cook Road** in place be modified to address the necessary maintenance measures needed for continued protection of the water resources on the site as well as the protection of the trail and the forest itself; unanimously approved.

Notice of Violation – Gonzales Landscaping Inc. owner- Activities within regulated areas without a permit – 18 Frederick Drive. Order upheld at the August meeting.

Griswold Nelson gave an update on the matter, addressing conversation with site engineer Keith Bodwell and outreach to concerned neighbors. Accordingly,

Motion made by Mr. Hurlburt, seconded by Mr. Morgan, to UPHOLD THE ORDER IN PLACE; unanimously approved.

CORRESPONDENCE AND COMMUNICATIONS RECEIVED.

OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.

ADJOURNMENT

Motion to adjourn by Mr. Hurlburt, seconded by Mr. Demy to adjourn at 7:45PM;
unanimously approved,

Respectfully submitted by recording secretary Karen Griswold Nelson, for Mr. Demy,
Commission secretary