

**MINUTES**  
**Regular Meeting**  
**August 25, 2009**

Members Present: Mr. Dirienzo, Ms. Napier, Mr. Horrigan, Ms. Fitch and Ms. O’Conner  
Alternates Present: Mr. Smoliga and Ms. Steers  
Others Present: Mr. Kellerman, Mr. and Mrs. McDonald, Mr. Szymanski, Mr. and Mrs. Stuart,  
Brian Duda and Tammy McVey-Camilleri of Voices

Mr. Dirienzo called the meeting to order at 7:29 P.M.

**SEATING OF MEMBERS**

Chairman Dirienzo seated members Napier, Horrigan, O’Conner, Fitch and Dirienzo.

Mr. Dirienzo welcomed Julie Steers to the Commission as an Alternate. He noted that one Alternate position remains open on the Commission.

**CONSIDERATION OF MINUTES**

Mr. Horrigan abstained from the approval of the minutes. Mr. Dirienzo seated Mr. Smoliga for Mr. Horrigan.

The approval of minutes from the Regular Meeting of July 28, 2009

Ms. O’Conner noted that the word “content” should be replaced with “context” on page 3 in the last paragraph.

MOTION: To approve the minutes of the July 28, 2009 Regular Meeting as amended. By Ms. Napier, seconded by Ms. O’Conner and passed 5-0.

Mr. Smoliga stepped down and Mr. Horrigan was reseated.

**WEO REPORT**

Mr. Dirienzo reviewed the WEO report and noted the three nonregulated approvals.

**COMMUNICATIONS**

Mr. Dirienzo explained that they will review the correspondence from the McDonalds under Complaints/Enforcement on the agenda.

## **OLD BUSINESS**

### Wiant/46 Southbury Road – Single-family dwelling- IWC to report on site inspection

Mr. Dirienzo reported that he and Mr. Horrigan met Mr. Szymanski on the site for the site walk. He noted that they had no concerns with the crossing as long as a box culvert was used. Their area of concern is the driveway placement and suggested to shift it slightly further uphill.

Paul Szymanski submitted and reviewed a revised map dated July 9, 2009. He explained that they are proposing a 4-foot wide box culvert, which will be 2 feet deep with 1 foot set in the bed. He reviewed the revised driveway placement further uphill and noted that it follows the old wood road as much as possible to limit disturbance. Mr. Szymanski reviewed the drainage plan with Mr. Horrigan.

**MOTION:** To approve the application of Wiant/46 Southbury Road – Single-family dwelling as a regulated activity by Mr. Horrigan, seconded by Ms. O’Conner and passed 5-0.

## **NEW BUSINESS**

### Roxbury Land Trust – Botsford Hill Road – Early Successional Habitat Management

Brian Duda, Land Trust Director, explained that the Land Trust was awarded a grant for early successional habitat management. He presented a plan to brush cut in order to reclaim a field on the Roxbury Land Trust. He explained that they propose to access the field along the existing railroad bed. The cut into the field will need improvements and a stonewall will need to be broken through. This will also be a point of access for the yearly maintenance of the field. He noted that they have attempted to contact an adjoining property owner regarding access; however, have been unsuccessful. They are concerned that the time period for the grant will expire.

**MOTION:** To approve the application of the Roxbury Land Trust – Botsford Hill Road – Early Successional Habitat Management as a nonregulated activity in accordance with Section 4.2.a of the Regulations by Mr. Dirienzo, seconded by Ms. Napier and passed 5-0.

### Stuarts/160 Baker Road- Food Concession Building

Mr. Stuart reviewed the site plan for a proposed food stand. He noted that there is a river across the street and the pond in the back of the property is approximately 150 from the site. He explained that in the front of the property a small septic for waste water will be located and that port-o-lets would be used. A contract is on file to have cooking oils taken away. He agreed that roof runoff would go to the ground.

Mr. Horrigan explained that he would like to see the roof and parking lot drainage, septic, etc. on a map. The Commission agreed that the applicant should submit a revised plan to WEO, Mary Barton for her review and approval as a nonregulated activity.

## **COMPLAINTS/ENFORCEMENT**

### McDonald / 6 Baker Road - Show Cause Hearing / Cease & Desist Order continued

Mr. Dirienzo confirmed the Commission’s receipt of Mr. McDonald’s letter dated 8/21/09. He explained that he takes this seriously and is sorry that Mr. McDonald feels the Commission is bias. He recognized that he might have been harsh; however, when members of the Commission are attacked he will defend them with vigor and will not apologize for it. He explained that he

has worked with many of the Commission members for years and knows they are fair. Their only agenda as Commission members is to protect the wetlands in accordance with the Regulations.

Mr. Dirienzo reviewed the history of the Complaint/Enforcement and reported that the Town Attorney has confirmed that the activity performed was not a maintenance activity. He noted that the fine imposed should have been \$1,000 rather than \$1,000 per day, which can be imposed under State Statutes. Mr. Dirienzo reported that they have received the opinion of Sean Hayden of the NW Conservation District. Mr. Dirienzo suggested that this issue could be easily solved if the McDonalds would agree to follow Sean Hayden's recommendations. Additionally, he would like the wetlands flagged to determine whether the berm is in a wetland area and the crossing should not remain.

Mr. McDonald explained that he did not build a berm, but merely removed sod. Additionally, he noted that the problem here is that the Town of Roxbury and the State Police chose not to enforce the criminal trespass.

Mr. McDonald noted that the letter written from Sean Hayden was addressed to Mr. Dirienzo as chair. He filed a FOI request to determine how the request for his review originated. Mr. Dirienzo explained that Mary Barton acted as an agent to the Commission when submitting the request to Sean Hayden.

Mr. McDonald noted that the letter from the Town Attorney referenced Section 13.3 of the State Regulations. He has obtained Section 13.3 from the Town Clerk, which notes that a fine is not to be assessed until 10 days after the hearing. Mr. Dirienzo explained that there are both Town and State Regulations. Roxbury adopted an ordinance where a Commission can assess a fine at any meeting. Mr. McDonald disagreed and suggested that Mr. Dirienzo get with the Town Clerk to review the Regulations. He was given this information when he requested a copy of the Regulation referred to in the Town Attorney's letter.

Mr. McDonald submitted a letter of opinion from EMS Associates. Mr. Dirienzo agreed to pass this on to Sean Hayden for his review. He explained that the Commission would consider all information submitted and agreed to continue the hearing to September to allow for Sean Hayden's review. Mr. McDonald confirmed that he would be available for September's meeting. Mr. Horrigan suggested that if Mr. McDonald prefers, the Commission could hire an expert to review the letter from EMS. Mr. McDonald confirmed that he did not have a problem with Sean Hayden's credentials.

The Commission discussed the removal of the wetland crossing. It was noted that Mr. McDonald had previously submitted an application for a bridge, but it was later withdrawn. Mr. Dirienzo noted that it sets a bad precedence to allow the crossing to remain. It is not fair to everyone else in town that goes through proper process for crossings. Mr. McDonald noted that the lesson to the residents of the town is that the police did not enforce trespass. Ms. Fitch explained that this civil or criminal matter is not a wetland issue. Ms. McDonald thanked the Commission for their latitude and noted for the record that it was not their intent to destroy the wetlands on their property.

Mr. McDonald reported that he submitted through the Town Clerk a map showing the delineation of the wetlands with regard to the brook. Mr. Dirienzo commented that it is wonderful that the grass will not be an issue.

MOTION: To continue Complaint / Enforcement of McDonald / 6 Baker Road\_-Cease & Desist Order hearing to the September IWC meeting and to submit EMS letter to Sean Hayden for his opinion. By Mr. Dirienzo, seconded by Ms. Napier and passed 5-0.

MOTION: To adjourn the meeting at 8:45 P.M. By Ms. O'Conner, seconded by Ms. Napier and passed 5-0.

By: *Tai Kern*

Tai Kern, Secretary

cc: B. Henry, R. Lowe, R. Dirienzo, P. Hurlbut, R. Falconer, M. Barton, R. Munson, G. McTaggart and H. Rawson.

Minutes are filed subject to approval by the Roxbury Inland Wetlands Commission.