

INLAND WETLANDS & WATERCOURSES COMMISSION TOWN OF VOLUNTOWN

March 3, 2016.

Members present were Chairman Tom Sweet, Dave Miner, Lester Davis, John Moran, Andrew McLellan and alternate Bob Panko. Alternate Tammy Daigneault was absent. Wetlands Agent Joe Theroux was also present.

In the Audience were Mr. Mercier, Shetucket Tpke. Attorney Harry Heller and about 15 residents from Bennett Road.

The meeting was called to order at 7:30 p.m.

Lester made a motion to accept the minutes from the February meeting, Andrew seconded the motion, all were in favor, motion carried.

Citizens Comments: Mr. Mercier wanted to thank the Board for sending him to the fire Department in regards to a dry hydrant that he would like to put by his driveway on Shetucket Tpke. He spoke with the Fire Chief and Assistant Fire Chief and they were really helpful as this will benefit 4 properties that share the same driveway.

Joe also mentioned that he received a call from DEEP that Mr. Labossiere will be submitting an application with them to repair the dam and spillway. There was some damage done to the concrete when the pond was lowered, so DEEP will make sure it is done right and Joe will be notified on what is going on.

New Business: Application IWC-16-01. Town of Voluntown, Public Works Garage. Bob DeLuca from CLA Engineers dropped off plans for the proposed garage on Gate Street. They are proposing some grading which is somewhat close to wetlands. The board members looked over the plans. Mr. DeLuca will do a presentation at the next month's meeting. Lester made a motion to accept Application IWC-01-16, plans for the Public Works Garage for the Town of Voluntown, Dave seconded the motion, all were in favor, motion carried.

Bennett Road/Buckley Drive. Attorney Heller representing Mr. Buckley. He stated that he is responding to the Board's request that Mr. Buckley submit an application, which they did not have, but will be addressing the Commission. Attorney Heller stated that he agreed with Joe that there is a problem, however, it is not Mr. Buckley's problem. He went on to say that there are a number of people that use that road to access their properties. He stated that in 2014 the Connecticut Legislature adopted a statute that states all users of a private road are equally responsible for the maintenance and upkeep of that road. He went on to say that it is a community problem due to the increased development on the road, especially the properties on the upgradient side of the road which has caused more runoff into the road. In talking with Joe and consulting with Boundaries, it will be a significant amount of money just to do the study which doesn't include the cost of implementing the actual measures to remedy the problem. Attorney Heller stated that Mr. Buckley is willing to be part of the solution but not all of the solution. Joe mentioned the letter that he received from Attorney Heller stating Mr. Buckley is the owner of the road and the residents along the road have rights of way. In doing some deed research, Joe

found that the people who have the rights of ways do not own the road. Mr. Buckley owns the land and that is the primary source of the violation. As a wetlands board it is not the commission's job to enforce a right of way grievance or state statutes on right of ways, it is their job to protect wetlands. The board does not disagree that the fault is shared as there is runoff from storm water discharge coming off of other properties as well as Buckley Drive, but it is his opinion that the majority of the sediment being discharged into the pond is coming off of the road, and as the owner of the property, the board has to deal with Mr. Buckley. Joe went on further to say that because the board issued a letter to Mr. Buckley in January giving him until the March meeting to make an application of which he hasn't complied with, the board could issue him a formal notice of violation of wetlands. After 10 days from issuance of notice, the board would have a show cause hearing letting Mr. Buckley speak to the commission, and explain why he feels it is not a violation. The board would then make a decision to uphold the violation or decline the violation. If they decide to uphold the violation and inform Mr. Buckley that they would like an application within a certain amount of time and if he does not comply, the issue will be remanded to the Town Attorney. Lester asked if it would be feasible to talk to the Town Attorney before they make a decision. Joe agreed as he has been in touch with him and is aware of the situation. Tom asked if Mr. Buckley was the only one doing maintenance on the road. Mr. Buckley replied that he does some, he used to plow but Al Daigneault has been doing it. Mr. Grandolfi commented on the statute that was mentioned. He said while it is perfectly clear, maintenance and restoring is very different from installing drainage. He drives over the road every day and he would be willing to share in the cost of plowing and pothole repair as long as there is a maintenance agreement. Mr. Belisle argued that the problem started way before the statute was enacted and why should they be responsible for something they passed a year ago. Attorney Heller stated that the statute was enacted not just for things that will happen in the future but things that happened years before. There was talk of the Town taking over the road, but the Town would not take over the road unless it was built to specifications. Joe reported that he received a letter from Mr. Lombardo who owns property on Bennett Road. He read the letter to the board. Tom asked Mr. Buckley about meeting with the landowners as he said he was going to do and Mr. Buckley stated that he had spoken to some individually but not as a whole, but he would be happy to do so. The board concluded that before any decision is made the commission will need to speak with the Town Attorney. Dave made a motion to table this discussion after the commission meets, at a special meeting in executive session, with the Town Attorney, John seconded the motion, all were in favor.

Agent's Report. He did get a complaint about a timber harvest up on Forge Hill Road. The neighboring property owners have said that they are coming onto their land. They are still working there pulling tops and cutting more trees. Also, there is a stream on the property. He also reported that the people that came in last month for 55 Bennett Circle have not been in contact with him since. When they do get in touch with him he is going to have them do a better site plan.

Dave made a motion to adjourn the meeting, John seconded the motion, all were in favor, the meeting was adjourned at 8:20 p.m.

Respectfully Submitted:

Thomas Sweet, Chairman

