

INLAND WETLANDS & WATERCOURSES COMMISSION
TOWN OF VOLUNTOWN
SPECIAL MEETING
JUNE 8, 2016

Members present were Chairman Tom Sweet, Andrew McLallen, Lester Davis, John Moran, Dave Miner, alternate Bob Panko. Town Atty. Mike Carey was also present. Alternate Tammy Daigneault was absent as was Wetlands Agent Joe Theroux.

Chairman Tom Sweet opened the special meeting at 6:07 p.m.

Attorney Carey stated that there was only one item on the agenda and thanked all of the members for attending. Attorney Carey stated that he was in contact with Joe Theroux and Joe had pointed out the statute that states the commission has to send a notice, by certified mail, of its decision within 10 days after completing the hearing. They felt that it would be best to have the meeting this week so the letter can be sent out right away. Atty. Carey stated that the board can vote to continue with the notice of violation, or leave in effect with revisions, or have it withdrawn. Tom and Bob were not at the hearing on June 2nd. They will not be able to vote or participate. Atty. Carey was not at the hearing until the end so he had not had a chance to look at what Attorney Heller submitted to the board at the hearing. John acted as chairman at that hearing and told Atty. Carey that they wanted to hear from him before they made any kind of decision. Attorney Carey stated that he felt Atty. Heller didn't deny there was a wetlands violation but that he felt the board should have included other potential respondents and he based that on a statute that deals with people who have easement rights. Lester made a motion to recess for 10 minutes so that Atty. Carey could go into another office and look at the maps, etc. that Atty. Heller presented to the board at the last meeting, Dave seconded the motion, all were in favor. When he came back into the meeting, Atty. Carey stated that he read the minutes from that meeting and mentioned that Atty. Heller gave a couple of cases, photographs and some maps. Atty. Heller did argue during the hearing that Mr. Buckley was incorrectly cited because he was not conducting a regulated activity and he isn't contributing to whatever is causing the erosion into the pond. Atty. Carey went on to say that Mr. Buckley does not need to be conducting a regulated activity to be in violation of the regulations if something he is doing or something he is not doing and should be doing is causing harm to a regulated resource, which is what Joe had cited him for. Atty. Carey went on to say that Atty. Heller made a common sense proposal but it would appear to be short term. The board is required by statute to uphold the order and keep it in effect, keep in effect with modifications or withdraw. If the board votes to uphold the order it would not stop Joe from going back and citing others on the road for their contribution to the problem. He doesn't think Joe has a legal obligation to enforce the statute that Atty. Heller cited to the board, but he has the right to do it if he feels it is necessary. The wetlands statute says that the owner of a property in which a wetlands violation is responsible and Mr. Buckley owns the road. Atty. Carey told the board that they should vote on the order based on what they feel was a wetlands violation and not so much on what they heard about statutes regarding people with easements to share maintenance

obligations. He went on to say that the easement statute that Atty. Heller cited to the board would not give Joe the authority to bring people in who have rights to the road and are not contributing to the wetlands problem. The board is in agreement that Atty. Heller's proposal on what should be done to the road is a good start but felt it was not adequate. They thought that the road would need more or bigger sumps and more catch basins. At some point the problem needs to be fixed. After some more discussion, Dave made a motion that the notice of violation dated March 30, 2016 issued by Joe Theroux to Mr. Buckley remain in effect and Mr. Buckley shall provide a complete application and engineered site plan for drainage improvements to Buckley Drive which would prevent additional storm water discharge into Beach Pond on or before 60 days from June 8, 2016 and will comply with all other provisions of notice of violation, Lester seconded the motion, all in favor.

Andy made a motion to adjourn, Lester seconded the motion, all in favor. The special meeting was adjourned at 7:45 p.m.

Respectfully Submitted:

Tom Sweet, Chairman