

**INLAND WETLANDS CONSERVATION COMMISSION
SPECIAL MEETING
MAY 24,2010
7:30**

Present

**Eric Belt
Diba Khan Bureau
Ed Natoli
Sally Snyder
George Ziegra
Gayle Balavender**

Absent

**Roger Phillips
Linda Wildrick
William Leuck**

Guests

None

S. Snyder called the meeting to order at 7:30 pm.

M/S/C (Belt/Ziegra) to seat G. Balavender for W. Leuck and E. Natoli for L. Wildrick. Vote: Approved Unanimously

D. Khan Bureau arrives at 7:36 pm.

- 1) To reconsider the decision pertaining to 566 Hartford Road, property owner George Meseha to issue a cease and desist order**

S. Snyder thanked the members for coming to the special meeting and reminded them of the action against Mr. Meseha at 566 Hartford Road that was taken at the last IWCC meeting. At that time, it was the WEO's recommendation to the Commission to require Mr. Meseha to remove the construction and replace the deck, as it previously existed within ten (10) days of publication of legal notice unless a properly submitted application was submitted to the Commission. If the property owner does not take corrective action, legal action on the part of the Town would be initiated. It was the opinion of S Snyder that if it did go to court the Commission did not have as strong a case as she would like. She was also concerned about the cost of legal fees.

She spoke to Steve Tesatore of the Inland Wetlands Commissioners Training Program. He informed her of State Statute, Sec 22A-44, which states: the order can be placed against the town property records that are kept by the Town Clerk. Specifically the agency may file a certificate of such order with the Town Clerk and the Clerk will record such certificate on the land record, it will be release when in compliance with the order. It

would be on the records and has to be resolved “some day.” S. Snyder thinks this solution will be less costly and the court case would be more certain.

E. Natoli stated he is bothered that it sets a precedent by the Commission that by ignoring or not dealing with someone who is in violation that it enables others to ignore the Commission.

M. Chinatti spoke to Mr. Meseha and she explained to him what the issues were and gave him an application to fill out for the next Commission meeting. He stated he would fill it out and come to the next meeting. He did not come and is totally, blatantly ignoring the Commission. She talked to Attorney Butts and asked how the process would work. He replied that he always sends a courtesy letter by certified, returned, receipt, and a letter by regular mail. He explains the problem and lets the property owner know that if he does not file an application then he will be served with a writ and it will be costly. He stated usually this will make the property owner come into compliance.

S. Snyder is concerned that the Commission may not get a judge that is not familiar with wetland regulations.

M. Chinatti stated that the evidence would show that the property owner is in violation.

M. Chinatti stated according to the USGS he is in a wetland. She has sent two certified letters and they have been returned.

S. Snyder stated that if he came in with an application he would likely be approved.

E. Natoli stated that the Commission has bent over backwards for the property owner

D. Khan Bureau stated he is in the wetlands and should be before the Commission

G. Ziegler stated anytime the Commission has had a problem with property owners, once they are notified there is a problem they usually come in, and the Commission works with them.

Most of the members feel that the Commission is setting a precedent by letting the property owner ignore or disregard the Commission and its regulation.

M. Chinatti would not have made her recommendation if the owner had not stated that he would fill out the application and made an attempt.

S. Snyder stated that regardless of how the Commission feels about his lack of responsiveness, the merits of the case are that there is not a huge amount of impact or any, and they are not certain if it is in the wetlands or upland review. Have to consider the merits of the case and how it affects the wetlands not the technicalities of the process.

D. Khan Bureau stated that the Commission should trust the WEO and she has many years of experience with these matters and her opinion should be taken seriously. She asked why are we here.

S. Snyder stated that the members have two choices, they can stay with the past decision and motion from the last meeting, or, they can choose to place the order against the property.

M. Chinatti informed the Commission that member R. Phillips came in and gave her comments to read to the Commission which stated, the Commission should stick with the original motion and not change it at a special meeting.

D. Khan Bureau stated that a similar situation happened to a property in Fieldstone Farms.

M. Chinatti stated she did not know if the legal notice has been noticed.

It was brought to the attention of the Commission that Eric was not at the last meeting and therefore could not vote.

E. Belt is in favor of turning the issue over to the attorney

M. Chinatti was asked to contact the Town Attorney and ask for his opinion on the options.

The motion from the previous meeting was read.

Members thought the courtesy letter from Attorney Butts should still be sent

M/S/F (Snyder/Balavender) to rescind the previous motion in lieu of the Agency filing a certificate of such Cease and Desist Order in the Office of the Town Clerk in accordance with Section 22A-44 of the State Statutes.

S. Snyder stated the order was a cease and desist and, to appear before the Commission.

D. Khan Bureau thought the Commission should follow the decision that was made at the last meeting.

G. Ziegra stated that two letters have been properly sent.

D. Khan Bureau stated he is blatantly ignoring the Commission

E. Natoli called the question

Vote: Failed. In favor, S. Snyder. Opposed, D. Khan Bureau, E. Natoli, G. Balavender, G. Ziegra. Abstaining, E. Belt

S. Snyder stated it would be up to the attorney to tell us how to proceed

E. Belt stated the issues before the court will be a compliance issue, not a wetlands issue.

M/S/C (Belt/Balavender) to adjourn at 8:10 pm.

Respectfully Submitted

Sue Spang
Recording Secretary