

**APPROVED 1-28-15**  
**TOWN OF NORTH HAVEN, CONNECTICUT**  
**MINUTES**  
**Inland Wetlands Commission**

Minutes of the Inland Wetlands Commission Special Meeting held on Wednesday, December 10, 2014 at the Mildred A. Wakeley Community & Recreation Center, 7 Linsley Street, in Room #3 at 7:00 PM.

**MEMBERS PRESENT:**

Mark R. Trojanowski, Chairman  
Peter Tenedine, Vice Chairman  
Pat Libero  
Joseph L. Tenedine  
Frank H. Bumsted, Alternate  
Pamela Sletten, Alternate

**ABSENT MEMBERS:**

Steven J. Nugent, Secretary  
Cheryl A. Juniewicz  
Anna Garsten  
Steven Miller, Alternate

**OTHERS:**

Alan Fredricksen, Land Use Administrator  
Jonathan Bodwell, Town Engineer  
Jennifer Coppola, Town Counsel  
Eric Desmond, Town Counsel  
Genevieve Bertolini, Stenographer  
Sandra Lion, Clerk

**AGENDA:**

Mr. Trojanowski, Chairman, called the Special Meeting of the Inland Wetlands Commission to order at 7:08 PM and introduced the Commission and town staff. Then he explained the procedure for the Public Hearing.

**PUBLIC HEARING:**

Mr. P. Tenedine read the call for the Public Hearing.

1. To provide the property owner of 480 Valley Service Road, North Haven ("Property") with the opportunity to be heard by the Inland Wetlands Commission and to show cause why the Cease and Desist Order issued by the Inland Wetlands Enforcement Officer, dated December 3, 2014, should not remain in effect.

Mr. Trojanowski read the State Statute for the procedure of a Cease & Desist Order and then Laura Magaraci, Zoning Enforcement Officer, spoke regarding the nature of the Cease & Desist Order. She submitted the Cease & Desist Order as Exhibit A, an aerial photograph of the site, Exhibit B and photographs of the site depicting damage from Mr. Neubig's activities, Exhibits C, D and E. She explained to the Commission that her photographs show violations that consist of filling of the wetlands and ponding and pooling of water into the wetlands. She stated that there has been an alteration in the stream flow and that there is sedimentation in the stream and watercourses. She also stated that a ridge area located on the northerly side of the site has been breached. The Commission asked questions and Ms. Magaraci and Mr. Fredricksen, Land Use Administrator, responded. Then she submitted her letter regarding the Cease & Desist Order dated December 10, 2014, Exhibit F, an as-built of the road, Exhibit G, and a site plan design drawing for a permit, Exhibit, H.

Mr. Trojanowski asked for public comment:

Public comment:

Attorney Jim Loughlin, representing Mr. Neubig, stated that the Zoning Enforcement Officer needs more information regarding this violation before she can follow through with this Cease & Desist Order. He stated that there is a court appeal regarding a pending violation on this site and he would like to incorporate this recent Cease & Desist Order into prior pending litigation. He also stated that if Mr. Neubig is shut down now he will not be able to button up the property. Then he submitted Exhibits 1-9.

Attorney David Monz of Updike Kelly & Spellacy, PC. representing Rabina Properties, 409 and 415 Washington Avenue, and Mr. Eoin Fitzgerald, Senior Property Manager of Rabina Properties, spoke regarding the impact of Mr. Neubig's activity on the Rabina property which is located to the immediate north of Mr. Neubig's site. Mr. Fitzgerald stated that Mr. Neubig's activities are causing sedimentation on his property and has impacted the wetlands on his site. He explained that he has walked the wetlands areas on his site and discovered that due to Mr. Neubig's excavation activities a tree on Mr. Neubig's property fell onto his property. Attorney Monz also stated that Mr. Neubig cannibalized approximately a quarter of an acre of the Rabina Property. Then he submitted a report, photographs and a map of the site, Exhibit I.

On November 25, 2014, Mr. Fitzgerald noticed dramatic activity on his site. His property had been encroached upon and excavated. He saw that work was done beyond the cement monument located on his property line. Mr. Fitzgerald stated that he had seen Mr. Neubig operating one of the excavating machines and went over to speak with him. He asked him what he was doing because it was clear from standing on the concrete marker that Mr. Neubig was past the Rabina property line. Mr. Fitzgerald told him that he had gone past his property line and was now very close to an environmental contaminated area that is under the control of Pratt & Whitney. Mr. Fitzgerald also stated that there is water with sediment flowing into the wetland area on their property and that 11,000 cubic yards of soil have been removed from the Rabina site. He also stated that a green section of grass with a fence around it measured nine feet from the east corner to the edge of the excavation instead of the twenty-five feet plus it should have been. He also stated that his engineers will now have to survey the impacted area and that they do not want Mr. Neubig to remedy the damage with fill from his site because it has not been tested. Then Attorney Loughlin responded to Mr. Fitzgerald's comments.

Mr. Monz asked the Commission to uphold the Cease & Desist Order and requested that a restoration plan be submitted to the Commission by a soil scientist in order to remedy the damage. Mr. Jonathan Bodwell, Town Engineer, showed the Commission, on a site plan, various areas where Mr. Neubig has conducted work beyond his property line. Mr. Trojanowski asked Attorney Loughlin what it meant when he stated that Mr. Neubig is trying to “button up” his site. He asked if it meant Mr. Neubig was finishing whatever his intentions were to do there or was he trying to cap this. Attorney Loughlin stated that “button up” meant to stabilize the soil for winter storms and that what was approved by Planning & Zoning calls for final elevations.

Ms. Magaraci and Mr. Trojanowski stated that this recent violation is a very serious issue. Ms. Magaraci stated that filling of the wetlands is an egregious violation. It changes the ecology of the wetlands and decreases the capacity to hold floodwaters so this is not something that should be taken lightly.

Mr. Trojanowski then asked to close the Public Hearing. Mr. Bumsted moved to close the Public Hearing; Mr. J. Tenedine seconded the motion. All were in favor.

Mr. Bumsted moved to go into deliberations; Mr. P. Tenedine seconded the motion. All were in favor.

#### **DELIBERATIONS:**

1. To provide the property owner of 480 Valley Service Road, North Haven (“Property”) with the opportunity to be heard by the Inland Wetlands Commission and to show cause why the Cease and Desist Order issued by the Inland Wetlands Enforcement Officer, dated December 3, 2014, should not remain in effect.

Mr. P. Tenedine moved to affirm the Cease & Desist Order dated December 3, 2014; Mr. Bumsted seconded the motion. The Commission voted as follows:

Trojanowski – aye P. Tenedine – aye Libero – aye J. Tenedine – aye Bumsted – aye Sletten – aye

In affirming the Cease & Desist Order the Commission offered the following comments:

1. The Cease & Desist Order was affirmed due to the compelling evidence from town staff and the adjacent property owner’s testimony that was not refuted.
2. A remediation plan needs to be submitted by a soil scientist for approval by the Commission.
3. The Commission is concerned with Mr. Neubig’s activities impacting the Quinnipiac River and adjacent properties.
4. The applicant needs to follow the three (3) action steps stated in Exhibit F.
5. Any or all legal action such as penalties shall be taken by the town.

#### **ADJOURN:**

Mr. P. Tenedine moved to adjourn the meeting; Ms. Sletten seconded the motion. The meeting was adjourned at 9:02 PM.