



TOWN OF FRANKLIN

INLAND WETLANDS AND WATERCOURSES COMMISSION (IWWC)

Franklin Town Hall
7 Meetinghouse Hill Rd.,
Franklin, CT 06254

MINUTES REGULAR MEETING

May 1, 2018
7:30 p.m.

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1. Call to Order: Chairman Cali Carboni called the Meeting to order at 7:32 p.m.

Members Present: Vice Chairman Leo Bienvenue, Chairman Calli Carboni, Joseph LeVasseur, Secretary. **Members Absent:** Niels Jeppesen, Don Smith. **Alternate Members Present:** Pat Coleman. **Alternate Members Absent:** John McGuire. **Also Present:** Wetlands/Building Official Tom Weber and First Selectman Charlie Grant. Pat Coleman was seated for Don Smith.

2. Recognition of Visitors:
3. Additions to the Agenda: None.
4. Approval of Minutes:
 - a. March 6, 2018

MOTION #1 (05-01-18): made by Mr. LeVasseur SECONDED BY Mr. Bienvenue that the Inland Wetlands and Watercourses Commission approve Minutes of March 6, 2018 as presented
VOICE VOTE: UNANIMOUS; MOTION CARRIES

5. Report of the Wetlands Enforcement Officer:

Mr. Weber noted he has met with Mr. Michael Tules, representing K-Best USA Trading, Inc., to discuss wetlands considerations about a property use of equipment storage involving multiple large trucks and equipment located at 931 Route 32, Franklin, CT, Map 3, Lot 7, Zoned R-120. Mr. Tules was asked to provide erosion and sedimentation control measures consisting of hay bales and silt fence with respect to best management practices.

6. Unfinished Business: None
7. New Business:

- a. **IWWC #18-02 Franklin Hills Estates & Country Club, LLC:** Proposed New Site Plan Review with Regulated Activities for property located on the westerly sides of Route 32, Avery Lane and Lathrop Lane, Franklin, CT, Map 37, Lot 1, existing use of property is golf course under construction, proposed activity is golf course, driving-range, clubhouse, lodge, maintenance building, and support facilities

IWWC COMMENTS / CONCERNS:

There was discussion on the current Franklin Hills Golf Course IWWC Permit including “conditions of approval”, items 1 through 13, as listed in minutes of the April 7, 2004 meeting. It was noted the *current* Wetlands Permit expires April 7, 2019 as described in the Notice of Decision sent to the applicant June 2, 2014.

It was clarified the Planning & Zoning Application (04-01 & 15-01) for the Golf Course expires in two days - May 3, 2018. At the point of expiration, the existing golf course project reverts to the current Wetlands Permit and its “conditions of approval”.

APPLICANT PRESENTATION: Mr. Sam Giavara, Mr. Normand Thibeault, and Mr. George Lucas were present to provide a presentation.

Exhibit A: Mr. Giavara submitted into the record, a Franklin Group, LLC, Planning, Permitting, Design & Construction Administration Services Summary Report, undated.

The report indicated the applicant’s objective this evening regarding golf course development is to convey that the site wetlands impacts have been significantly reduced and satisfactorily addressed from what was previously approved by IWWC.

Mr. Giavara noted in the report that in reality the new application actually is the same as the previously approved application plans and reports. And, in fact, the only sheet revised in the entire set of the 2015 (Application #15-01) plans (94 sheets) previously reviewed and approved is the “title sheet”.

IWWC COMMENTS: Chairman Carboni indicated IWWC cannot accept the new Application #18-04 and plans this evening because the permit does not comply with the following IWWC Regulation:

Chapter 7, Section 7.11, for any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:

- a. For the purposes of this section “conservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominately in their natural, scenic or open condition or in agricultural, farming, forest or open space use.
 - c. No person shall file a permit application, other than for interior work in an existing building or for exterior work that does not expand or alter the footprint of an existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction not later than sixty-five (65) days prior to the filing of the permit application.
 - d. In lieu of such notice pursuant to subsection 7.11c, the applicant may submit a letter from the holder of such restriction or from the holder’s authorized agent, verifying that the application is in compliance with the terms of the restriction.”
- Subsection b was omitted as it is not relevant in that it addresses preservation easements.

IWWC noted in 2014 the conservation easements was granted and recorded on the Franklin Land Records by Franklin Hills Estates and signed by the First Selectman and Chairperson of the Agricultural and Conservation Commission. However, because the application presented this evening is considered a “new” application, it does not comply with the required 65 day notice requirements as outlined above under Section 7.11. c.

Additionally, IWWC noted the Golf Course Plan Set, Sheet CON-1 notes that two conservation easement areas require modifications prior to construction (areas I and J), so in fact, there have been changes to the plans.

IWWC indicated the Applicant has two choices:

1. Operate under the current Wetlands Permit Application #03-14 & 09-01 ONLY after meeting all conditions set forth in the original conditions of approval including bonding
2. Elect to move forward with this application, as submitted, while complying with requirements and bonding as applied to a new IWWC application for permit

IWWC noted if the applicant chooses to stay with the current permit, all conditions of approval must be met prior to the Planning & Zoning Commissions rendering any future decision.

Mr. Giavara responded that absolutely nothing has changed except for the title sheet and that this application is the same as the previously approved application (94 sheets) and that they haven’t changed anything.

Mr. Giavara stated to date, some 85% of the wetland-related field work has been completed and that soil and erosion sedimentation control systems are in place and operating. ARMY CORP and DEEP did a site review in 2016 including the completed compensatory wetland mitigation areas and erosion and sedimentation control systems and gave their approval. So at this point, there is really nothing left to bond.

IWWC COMMENTS: Chairman Carboni indicated the applicant or its representatives never posted the full bond as was required by the Planning & Zoning Commission (for both PZC and IWWC) other than the 25,000 cash bond portion.

Planning & Zoning Commission and IWWC bond requirements stated that a surety in the amount of \$865,000.00 shall be posted with the Town of Franklin prior to any construction, grading and/or excavation activity at the site with \$25,000 of the \$865,000.00 be in the form of cash to cover both Commission’s concerns.

Subsequently, the Planning & Zoning Commission approved the applicants request for a reduction in the erosion and sedimentation control measures surety bond to the amount of \$365,000.00 based on the completion percentage of the project May 19, 2015. As was the case of the first bond, this reduction bond was also never posted.

The Planning & Zoning permit has expired including their bonding requirements, therefore, the golf course approval reverts to the current IWWC permit and its “conditions of approval” including their bonding as follows:

IWWC bond requirements of the approval for Applications #03-14 & 09-01 stated that a bond shall be provided in the amount of \$532,583.00 for the maximum proposed site

disturbance of 50 acres at any given time for site restoration and erosion and sedimentation controls in a manner acceptable to the Town Treasurer and Town Attorney.

Chairperson Carboni noted that reports had been issued to the Town indicating silt fence was failing and sedimentation infractions were going on and it took up to three weeks before repairs were made. IWWC condition of approval #2 states that any additional erosion or sedimentation controls requested by the Site Monitor, the Town Staff, or the Town's Designated Agents shall be installed within 24 hours of any such request.

There was IWWC consensus that all original conditions of approval shall be met by the applicant, including bonding requirements, prior to commencing work on this site.

Discussion took place about whether there is the need for a public hearing.

Mr. Giavara stated according to a review by his team of the Town IWWC Regulations a public hearing may not be necessary because most of the wetlands work has already been done and that this is the same project that was already approved.

IWWC Chairman indicated a decision to hold a public hearing is up to the Commission once they have seen a current and accurate plan set. IWWC may decide what is in the best interest of the Commission. Additionally, a petition of the people with required signatures can also ask for a public hearing.

8. Correspondence: Reviewed as submitted

9. Report of the Chair: None

10. Public Comments: None

11. Adjournment:

MOTION #2 (05-01-18): made by Mr. LeVasseur SECONDED BY Mr. Bienvenue that the Inland Wetlands and Watercourses Commission adjourn the meeting at 7:59 p.m.

VOICE VOTE: UNANIMOUS;

MOTION CARRIES

Respectfully submitted,

Sherry Pollard

Land Use Administrative Assistant