

**TOWN OF FRANKLIN**  
**INLAND WETLANDS AND WATERCOURSES COMMISSION (IWWC)**  
Franklin Town Hall  
7 Meetinghouse Hill Rd.,  
Franklin, CT 06254  
**MINUTES**  
**SPECIAL MEETING & PUBLIC HEARING**  
**May 29, 2019**  
**7:30 p.m.**

1. Call to Order: Chairman Calli Carboni called the Public Hearing / Special Meeting to order at 7:35 p.m.:

**Members Present:** Chairman Calli Carboni, Niels Jeppesen, Joseph LeVasseur, Secretary Don Smith.

**Members Absent:** Vice Chairman Leo Bienvenue. **Alternate Members Present:** Raymond Baribeault, Pat Coleman, John McGuire. **Also Present:** Ron Chalecki, Zoning Enforcement Officer, Charlie Grant, First Selectman, Bob Russo, C.S.S. CLA Engineers, and Carly Myers, Planner Southeast Connecticut Council of Governments (SECCOG).

2. Recognition of Visitors: Chairman Carboni recognized all visitors.

3. Public Hearing: To Order at 7:30 p.m.

- a. **IWWC # 18-03 Franklin Hills Estates & Country Club, LLC:** Revised Site Plan Review for 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 and support facilities under construction, proposed activity is golf course, driving-range, clubhouse, lodge, maintenance building, and support facilities.

**APPLICANT / PRESENTATION:** Sam Giavara, Attorney Harry Heller, George Logan, Stephan Nousopoulos, Normand Thibeault, and Mario Tristany were present to represent Franklin Hills Estates & Country Club.

**Documents Submitted into the application record:**

**Received:**

Project Narrative/Overview from Attorney Heller dated May 28, 2019	May 28, 2019
Exhibit B – Map Supporting Material for Analysis & Alternatives	May 29, 2019
Exhibit C – REMA Response Letter to CLA Concern #26 on Project Review Letter May 23, 2019	May 29, 2019
Exhibit D – Existing Conditions	May 29, 2019

**Revised Plans Submitted into the application Dated May 9, 2015. (27 Sheets)**

**Received:**

GE.01-GE.02	GENERAL NOTES, TABLES & LEGENDS	May 13, 2019
SE.01-SE.14	SOIL EROSION CONTROL PLANS 1 THRU 14	May 13, 2019
WIM.02	WETLAND IMPACT & MITIGATION PLAN	May 13, 2019
ST.01–ST.03	CONSTRUCTION PHASING PLAN 1-3	May 13, 2019
CON.01	PROPOSED CONSERVATION EASEMENT PLAN	May 13, 2019
SD.01, 02, 05, 11 & 16	EROSION & SEDIMENTATION CONTROL DETAILS	May 13, 2019
11 & 16		May 13, 2019

Attorney Heller indicated the applicant is asking for a permit/license to conduct regulated activities. Primary direct impact will occur in wetlands and watercourses as a result of proposed activities associated to this application. Activities will be conducted within upland review areas. However, there will be no digging and filling in wetlands. The primary activities seek a permit for associated primary disturbances within the access road that provides access to the course, clubhouse, and lodge utilizing Avery Lane. As result of site review by our consulting soil scientist, it was determined a new wetlands or watercourse may have formed as result of incomplete grading when the project stopped in 2015. In addition to regulated activities regarding the access road, we are also requesting a permit to fill an area within the 16<sup>th</sup> fairway in conjunction with final grading. There are secondary impacts associated to the construction of the golf

course. It is necessary to have play over areas to get from tee's to fairways and fairways to greens to accommodate golf course play. Attorney Heller indicated this application is to conduct regulated activities in conjunction with the development of the golf course and country club facility. As a result of the applicant addressing review comments from Town Staff and State Agencies the reduction in primary impacts from the primary impacts originally approved for this project have been significantly reduced.

#### **IWWC COMMENTS / CONCERNS:**

1. **Intergraded Turf Management Plan:** The applicant submitted an outdated Intergraded Turf Management Plan dated 2004 into the application record. Chairman Carboni indicated this project will not be allowed to move forward if an updated Intergraded Turf Management Plan is not submitted to the Town allowing time for sufficient review by appropriate Town Staff and the CLA Engineering. Carly Meyers referenced an email written by Dr. Michael Sullivan, dated May 22, 2019, the author of the original 2004 Plan indicating he would provide an updated report and recommendations to Sam Giavara, not later than June 15, 2019. Attorney Heller asked the commission to consider allowing the submittal date to move to June 30, 2019 as a time buffer.

Mr. Russo indicated, professionally speaking, the applicant should have had this document completed and submitted with the application on January 29, 2019. This particular plan is a very important document and is completely necessary for Town Staff and CLA to render responsible decisions on this application. Incidentally, this item of concern was clearly indicated as item #20 in the CLA site review letter addressed to the applicant, dated February 26, 2019. Herbicides, pesticides, and fertilizers have the possibility to harm wetlands and this is in the direct interest of this commission.

Attorney Heller agreed cultural practices remain the same, however, herbicides, pesticides, and fertilizers have changed; so, there is an obvious need to update this report and it should have been updated and presented with application.

2. **Bonding:** Attorney Heller stated the applicants Opinion of Probably Construction Costs for E&S Controls & Restoration including a project contingency is approximately \$394,500.

It was clarified the Commission is only in receipt of the Killingly Engineering Associates Opinion of Probable Construction Costs E&S Controls & Restoration dated January 28, 2019 in the amount of \$338,442.50.

Attorney Heller noted the 2004 Commission Bond amount was based on the application showing a 50 acre maximum disturbance area. The current application calls for a maximum disturbance area of 35 acres. Plan sheets ST01 – ST03 delineate how the golf course is to be constructed showing acreage of disturbance in phasing with largest amount at 35 acres.

Attorney Heller reviewed areas of bonding that he took issues with:

1. Rough Grading: CLA estimate contemplates 50 acres of disturbance at one given time. Estimate should be reduced in consideration of the maximum area of disturbance modification to 35 acres as shown in the staging plans.
2. Site Stabilization: This line item/amount is in place to cover estimated costs if the Town of Franklin needed to come in and stabilize the site in the event this project stops. Attorney Heller noted because the staging plan has been revised to show an acreage reduction of disturbance at any one given time to 35 acres, the bonding amount should be reduced.

3. Seeding, Mulch, Fertilizing CLA noted in a document sent to PZC that if the earth is cut into and the site is hydro-seeded and then there is a high intensity storm event you could still have erosion. Heller submitted documents showing that the 10% contingency would cover this situation. He also submitted documents from the private commercial sector showing pricing for items such as spreading top soil, fertilizer, and mulch that are much reduced than that of CLA. In theory, the free market proposals shows CLA price is high. In summary, attorney Heller indicated his bonding estimate is therefore \$394,000.

**CLA RESPONSE COMMENTS/CONCERNS:** Mr. Russo indicated he does not recommend reducing the CLA bond amount for this project and that Inland Wetlands maintains the bond request amount of \$570,000. The applicant has claimed the open area of disturbance at any one time is 35 acres. To say 35 acres will be disturbed at one given is still of great concern as notably even 35 acres is an exceptional amount of soil to be exposed. Currently, it has been learned that many places of construction, such as solar farms, within this area of the state that has had exceptional amounts of soil exposed has received DEEP sanctions due to erosion and sediment issues. For this golf course project there is significant potential for these types of issues on this site. Additionally, there are other parts of this course that are not stabilized to date and are experiencing erosion and sedimentation issues that must be considered in the bond amount. In terms of these considerations, the result could actually affect more than 50 acres of exposed soil at any one given time. The bond is necessary protection to the Town of Franklin should the applicant pull off site and stop work in middle of this project. Additionally, the history of this applicant is to in-effectively respond to erosion and sedimentation issues raised by Town Staff throughout the duration of this project. Erosion and sedimentation concerns were not addressed in a timely manner, if at all, in accordance with the conditions of approvals as required in the permit.

Attorney Heller responded that solar farms are not germane to this application. Mr. Russo addressed the Commission and indicated solar farms are absolutely prudent and appropriate for discussion relative to this application. This application will promote a large area of contiguous soil that will be "exposed". Solar farms did not have issues during installation per say, but did have issues while the large area was stripped. Also the fact that the developer does not maintain a contractor on site to immediately address issues is of great concern.

Mr. Giavara responded and said that he assigned a contractor to the site May 11, 2019 to address outstanding E&S issues at the request of the Wetlands Officer. Mr. Giavara also noted the contractor has been addressing issues immediately on site for the last two months. Attorney Heller noted the applicant has recently entered into a contract with Boundaries Inc. to now fully monitor the site.

Chairman Carboni noted Attorney Heller informed Town Staff at the IWWC meeting of May 7, 2019 that complete responses and revised plans would be submitted to the Town by May 9, 2019 to allow adequate time for staff review in preparation for the Special Meeting / Public Hearing on Wednesday May 29, 2019. Responses and revised plans were submitted to the Town May 13, 2019 allowing eleven business days for CLA and Town Staff to address the twenty-seven concerns and the revised twenty-seven plan sheets.

Chairman Carboni noted perhaps in the last two months Boundaries has been addressing issues, however, issues were absolutely not addressed professionally and in a timely manner for the history of this 14 year project as was a condition of approval for the 2004 permit.

Mr. Russo responded that Mr. Giavara is not correct in his statement above. If you review Boundaries reports from Jake Falise it is indicated in several cases in two or three consecutive reports that items he noted as needing attention had not been addressed - period. It is made clear in these reports that issues were not immediately addressed as Mr. Giavara claimed. Mr. Russo responded in this way to be sure the record of these proceedings is in fact correct.

Chairman Carboni closed the Public Hearing at 8:59 p.m. Chairman Carboni opened the special meeting at 9:13 p.m. and seated Mr. Coleman for Mr. Bienvenue.

4. New Business:

- a. **Discussion: Sedimentation & Erosion Issues Associated to Franklin Hills Estates & Country Club, LLC:** property located at 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 and support facilities under construction, proposed activity is golf course, driving-range, clubhouse, lodge, maintenance building, and support facilities.

Attorney Heller indicated E&S issues have been inspected by Boundaries and have been determined to be corrected as reflected in recent site reports. Town Staff confirmed that at this point issues and concerns have been addressed.

5. Old Business:

- a. **IWWC # 18-03 Franklin Hills Estates & Country Club, LLC (CONTINUED):** Revised Site Plan Review for 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 and support facilities under construction, proposed activity is golf course, driving-range, clubhouse, lodge, maintenance building, and support facilities.

**MOTION #1 (05.29.19):** made by Joseph LeVasseur SECONDED BY Niels Jeppesen that the Inland Wetlands and Watercourses Commission approve IWWC #18-03 Franklin Hills Estates & Country Club, LLC.

**WITH THE FOLLOWING CONDITIONS**

**VOICE VOTE: UNANIMOUS;**

**MOTION CARRIES**

1. That the Applicant retains a qualified engineer to act as the site monitor throughout the site construction elements of this project until such time that all disturbed areas have been fully and permanently stabilized. This site monitor should make daily inspections during periods of active construction, weekly inspections during less active periods of construction, and inspections immediately following all rainfall events in excess of ½ inch. The site monitor shall provide reports to this Commission, and the Planning and Zoning Commission, in writing, on a timely basis, outlining, site observations made, project progress, recommendations provided, and corrective actions satisfactorily implemented by the site contractor. Copies of this report shall also be provided to the project owner, Town Engineer, Wetlands Agent, SECCOG, and First Selectmen.
2. Any additional Erosion and 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.
3. A bond shall be provided in the amount of \$570,000 for the maximum proposed site disturbance of the anticipated 35 acres at any given time for site restoration and erosion and sedimentation controls in a manner acceptable to the Town Treasurer and Town Attorney. Should the applicant propose to disturb an area greater than the 35 acre maximum at any given time, then the applicant shall be required to submit a revised site plan, construction narrative, and cost estimate for review and approval by this Commission which would provide for immediate stabilization of interim disturbed areas with additional soil and erosion controls and temporary hydro-seeding and mulching as required by the Commission at a minimum subject to any other conditions which the Commission may impose at that time.
4. The applicant shall deposit \$25,000 cash with the Town Treasurer to cover adjunct Town Staff Site Inspections with monthly billing statements provided for the expended inspection activity such that at

no time shall no less than \$5000.00 in cash reserve remain on hand and immediately available to the Town to pay for such Town inspection costs.

5. Any and all activities within 50 feet of delineated wetland and/or wetlands not currently detailed on these plans shall require a new application for a site plan modification to and requisite approval by this Commission prior to commencement of any such change.
6. No stumps, wood, or other land clearing debris shall be buried on the site. All Land clearing wastes shall be chipped and used for on-site landscape mulch or removal and legally disposed of off-site.
7. Applicant is required to show proper relocation of sediment traps on revised plans because some of the temporary sediment traps are shown in locations that require fill to reach final grades. Applicant is also required to show properly positioned erosion and sediment controls on relocated sediment traps on revised plans.
8. Applicant is required to submit a valid and current Turf Management and Pest Management Plan for the golf course by June 30, 2019.
9. Applicant is required to rectify typographical errors referencing the "central portion" of the site draining to a point in Wetland "3B" on the existing conditions or proposed conditions drainage area maps
10. Applicant is required to keep **ALL** regulatory permits and all other associated permits current for this project. A copy of **ALL** permits including updated or modified permits must be provided to the Town of Franklin, this Commission, Town Engineer, Wetlands Agent, Planning & Zoning Commission, SECCOG, and First Selectmen and any other staff members the town may require.

11. Adjournment:

**MOTION #2 (05.29.19):** made by Don SECONDED BY Joe - that the Inland Wetlands and Watercourses Commission adjourn the meeting at 9:50 p.m.

**VOICE VOTE: UNANIMOUS;**

**MOTION CARRIES**

Respectfully submitted,

**Sherry Pollard,**

Land Use Administrative Assistant