

ENVIRONMENTAL PROTECTION COMMISSION  
EXECUTIVE SESSION & GENERAL MEETING  
MEETING MINUTES  
JUNE 23, 2004

The meeting was called to order at 7:35 p.m. in Room 119 of the Darien Town Hall.

Commission Members Present: Peter Hillman, Reese Hutchison, Susan Cameron, Robert E. Kenyon, Ellen Kirby, and Nina Miller

Commission Staff Present: Nancy Sarner

Executive Session:

The Commission entered into Executive Session to discuss pending and threatened litigation with Town Counsel. This session was closed to the public.

General Meeting:

The General Meeting was opened at 9:07 p.m. at the conclusion of the Executive Session.

Chairman Hillman read the following agenda item:

Informal discussion of EPC-75-2003, Parks and Recreation Department, Cherry Lawn Park, 120 Brookside Road, granted on September 3, 2003 for the expansion of Casey Field and related site development activities within a regulated area. During its discussion, the Commission shall consider if the hearing for the matter should be reopened. The property is located on the east side of Brookside Road, east of the intersection of Overbrook Road and Brookside Road, shown on Tax Assessor's Map #11 as Lot #31.

Chairman Hillman lead the informal discussion regarding the existing resolution for Cherry Lawn Park for Wetland Permit #EPC-75-2003. He first announced that the discussion was not open to public participation, as it was not a public hearing. He also stated that the Commissioners were reviewing a just-received letter from Attorney Braun threatening suit on behalf of Friends of Cherry Lawn Park and that he and the Commissioners would incorporate response to allegations in Ms. Braun's letter in their remarks. Mr. Hillman began by explaining his opinion on the issue, and the members then spoke in turn regarding their positions.

Mr. Hillman explained that the appeal period for the Commission decision had long expired, and that, although the Commission can, after a public hearing, modify, suspend or revoke a wetland permit if they find that information provided was "false, deceptive, incomplete and /or inaccurate", this power should be used sparingly. He said that during his review of recent materials and requests to reopen the hearing for #EPC-75-2003, he considered whether substantial bases exist to warrant such an action. He summarized the Commission's extensive review process and deliberation for their resolution of approval for the Casey Field expansion. Mr. Hillman stated that he respects and appreciates recent statements and inquiries made by the public, although disappointed by severity and breadth of certain allegations. He concluded that

the Commission considered in 2003 a conservative wetland delineation that is consistent with the June 14, 2004 letters from Soil Scientist Marc Beroz and Land Surveyor Jeffrey McDougal; that the Commission and Staff shall exercise its authority to monitor the work activity; and that a request should be made to Redniss & Meade to clarify and/or correct the plan to correct the scale and describe the sources of wetlands delineation.

Ms. Miller stated that she would not ask that the hearing be reopened. She said that she reviewed the approved maps, meeting minutes, testimony and recent written public inquires. She summarized that the field expansion would remove only three significant sized trees from the wetlands, fill 3 feet in the southeast corner of the field within non-wetland soils, and would create a larger natural area than the area to be disturbed. She said that the Commission had found it difficult to get information and the inhospitable attitude of some during the hearing is irrelevant. She said that there are many reasons why organized sports are more prevalent today. Ms. Miller stated that she and the Commission are obviously in favor of the environment, and that she feels that the Town could do more, such as use smaller grassed areas for its younger players, restrict out-of-town and adult leagues, allow more time for the fields to rest and passive recreation, such as play with Frisbees, and improve game scheduling. She noted that the Commission would see any plans for new parking and drainage.

Mr. Hutchison said that although the initial filing of the application was incomplete, the Commission received the information it requested, and approved the application with a remediation area to mitigate the disturbance. He said that the Commission cannot treat the Town differently from other applicants, and had asked the same questions to the Town during its review, including questions regarding wetlands impact, drainage, and tree removal. He said that they asked the applicant for a great deal, and that in the end, the application was substantially complete beyond the burden to reopen the hearing. He stated that, as the EPC, they do their job, and respect each other and the applicants that come before them. He said that the Commission had reflected in their resolution that they were disappointed with certain aspects of their discussion with the applicant, but that this does not warrant the reopening of the hearing. He said that a hearing was held, an approval was granted as the Commission deemed appropriate, and that a permit should not be revoked on a whim. He said that there must be high standards to reopen a public hearing and revoke a permit.

Ms. Cameron explained that she did have concerns regarding the wetlands line, alternatives, and hardship. She said that she thinks that Mr. Beroz was hampered in his delineation by the age of the property map he used during his site investigation, which she believes he mentioned in his report. She briefly compared the Redniss & Meade plan with the older plan used by Mr. Beroz. Mr. Hutchison asked Ms. Cameron if she thought fill had been placed on the property. Ms. Cameron replied that she was not sure, but felt that differences in certain areas were strange. Mr. Hillman opinioned that this issue was not significant in the context of the threshold needed to be met in order to "re-invent the wheel" for the permit. Ms. Cameron said that she felt it would not affect the wetlands line. She added that Mr. Beroz's letter clearly says the delineation shown on the Redniss & Meade plan is consistent, but that she felt it was necessary to note differences between the older and more recent plans.

Ms. Cameron referred to the issue of alternatives. She said that she had originally thought to make the field smaller, but that the applicant said that field needed to be made large enough to

divide into two fields for use by younger players. She said that she feels that the EPC was not given all the alternatives to review. Mr. Hillman said that, after reviewing the Parks & Recreation meeting minutes, the applicant had options and chose one to present to the EPC. He said that the EPC did not see three of the prospective designs. He said he believed that, even if the alternatives had been presented, there were no substantial differences to change his view. Ms. Cameron said that it would have changed her decision.

Ms. Cameron said that the Commission cannot consider "hardship." She said she would have approved a smaller field if she had known. Mr. Hillman noted that the constantly changing demographics had been discussed during the hearing, and that basing a decision upon age demographics is unwise because they are too fluid. He said that there has to be some flexibility with how the Parks and Recreation Commission uses its fields. He said that there has been a field shortage in the Town for years. Mr. Kenyon agreed with Mr. Hillman's statement. Mr. Hillman said that the environmental protection is a critical need of the Town, and that the EPC's resolution for #EPC-75-2003 is a balance of the Town's recreational need with environmental protection. He added that it is not under the EPC's purview to tell the Parks and Recreation Commission how to use the field. He said he thinks it would be too exacting to require a comprehensive field use study and needs analysis, and, in context of playfields, land purchase, etc., an exhaustive review of alternatives. Ms. Cameron said she did not think it was rigid because the Parks and Recreation Commission had a different plan available in January 2003.

Ms. Cameron said that the Commission does not review parking needs, but believes that the EPC should review an updated stormwater system if the parking area is to be changed. She said that the EPC's concern is not the intensity of field use, but wetlands impact and drainage, and that she would not have approved the application if she were aware of the plan approved by the Board of Selectmen in January 2003, which she described as a greater, overall plan. She said she feels that the Commission was asked to review the expansion of Casey Field in a vacuum without the overall plan, and described it as a piece-meal approach. She said she voted in favor of the resolution of approval based on hardship.

Ms. Cameron referred to the April 2004 letter to the editor from Caroline Luz, which stated that the field would be used by older kids and but there will be the same number of kids playing as there are now. She said she feels the Parks and Recreation has changed what they said they would do with the expanded field. Mr. Hillman said he could not justify reopening a public hearing based upon the letter. Mr. Hutchison noted that the letter refers to the ability to shift play areas to allow for rest periods for the field.

Ms. Cameron expressed concern regarding the removal of three significant trees of 12-inch dbh or greater, and that she felt that one was worth saving.

Mr. Hillman explained that in the resolution, the Commission used the word "hardship," which is also a zoning term, and that when the EPC considers the purpose and need of a project to protect the resources from unnecessary uses, they often use the word "hardship," in a non-legal sense. Ms. Cameron speculated that the need for the field expansion might not exist in the future. Mr. Hillman noted that the applicant gave evidence that the need would increase. Ms. Cameron said she gives credit to Mr. Richmond for the management of the fields.

Ms. Cameron said she believes that the project should be brought back to the Commission. Mr. Hillman said that he feels that bringing the project back before the Commission without a significant basis puts all other permits granted in the past in jeopardy, and that he feels there is not enough reason to reopen the hearing for #EPC-75-2003.

Mr. Kenyon stated that the Application #EPC-75-2003 was his introduction to the EPC. He said that he felt the initial application submission was sloppy, but that the EPC had received answers to their questions. He said that some of the information could be misleading, such as demographics. As an example, he stated that the Board of Education is not good at forecasting age demographics. He said that it is not right to now try to hold the Parks and Recreation Commission to tougher standards. He said he believes the EPC stood their ground during their review and made their decision, knowing it could be challenged. He said that the EPC and staff would continue to monitor the project, and concluded that he does not feel that they need to make a decision to reopen the hearing.

In sum, after full discussion, Messrs. Hillman, Hutchison, and Kenyon, and Ms. Miller saw no need to reopen the public hearing. Ms. Cameron disagreed. New member Ellen Kirby did not speak regarding the issue of reopening the hearing for the Casey Field expansion.

Mr. Hillman thanked other members for sharing their thoughts. He said that Redniss & Meade would be asked to update the survey to correct the scale and summarize the source of the wetlands delineation.

Chairman Hillman read the following agenda item:

Discussion and Possible Decision of EPC-52-2004, Darien Board of Education, 80 High School Lane, Proposing to install a synthetic turf multi-use athletic field and running track and perform related site development activities within a regulated area. The property is located north side of High School Lane approximately 1,200 feet west of the intersection of High School Lane and Middlesex Road, shown on Tax Assessor's Map #8 as Lots #80 & #81.

Upon discussion and consideration of the application file, the following resolution was adopted:

TOWN OF DARIEN  
ENVIRONMENTAL PROTECTION COMMISSION  
PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: JUNE 23, 2004  
EXPIRATION DATE: JUNE 23, 2009

Application Number: EPC-52-2004  
Applicant's Name and Address: Darien Board of Education  
2 Renshaw Road  
Darien, CT 06820

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Property Address of Proposed Activity: 80 High School Lane (a.k.a. 10 High School Lane)  
Darien, CT 06820

Name and Address of Applicant's Representative: Paul T. Engemann  
2 Renshaw Road  
Darien, CT 06820

Proposed Activity: Installation of a synthetic turf multi-use athletic field and running track to replace an existing field and track, and perform related site development activities within a regulated area.

Shown on Tax Assessor's Map #8 as Lots #80 & #81.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourse Regulations of the Town of Darien, and has found that an approval is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to inland wetlands within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicant's assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a public hearing on June 17, 2004. During the Commission's June 17, 2004 hearing, the applicant's representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission and Commission staff. The general public was provided an opportunity to express their opinions and comment regarding the proposed work activity.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members that participated in the deliberation are fully familiar with the site and its surroundings, finds:

A. PROJECT DESCRIPTION:

The application proposes the construction of a synthetic turf field and new 6-lane running track to replace an existing track and field. The new system consists of a synthetic turf matting and sand and rubber infill material set over a stone underdrainage layer.

A new drainage system for the proposed field would be installed, and would consist of flat panel drains within the stone underdrainage layer to collect infiltrating runoff. The underdrains would connect to two manholes located in the two northern quadrants of the track, then discharge into a single manhole that would convey the stormwater to the discharge point in the location of the existing outlet point. The existing 10-inch outlet pipe and endwall that projects into the stream would be removed, and replaced with an 18-inch pipe terminating at the endwall approximately 50 feet from the wetland boundary. The water would then be conveyed through new grass-lined channel with a scour hole to reduce velocities to a 10-foot long riprap apron that transitions into the brook. The new running track would be constructed of a material porous enough to evacuate the runoff from the track into the proposed underdrainage system at the field perimeter.

Proposed regulated activities include the construction of the new drainage outlet, and removal of materials for the construction of a grass-lined channel and scour hole.

The purpose of the project is to improve the quality and quantity of playing fields in Darien by substantially reducing the likelihood that a key field will be unplayable because of weather conditions, and conversely, by providing a major field that will be "playable" more regularly and consistently.

B. SITE DESCRIPTION:

The project area is located on the existing Darien High School property, which is currently under development. Wetlands are located along the western, northern and eastern property boundaries. The existing football field and surrounding asphalt 6 lane running track are located northeast of the existing school buildings. The field drains east and west toward a series of catch basins at the perimeter to the field, which discharge northward toward Stony Brook through a 10-inch concrete pipe.

C. HEARING PRESENTATIONS AND RECORD:

The applicant and his representatives provided materials to the EPC as part of the record in this matter. These materials were presented and discussed during the Public Hearing of June 17, 2004, and discussed during the Commission's deliberation on June 23, 2004:

1. Plan – "Darien High School – Field and Track, Darien, Connecticut, May 2004," Sheets C1.00~C5.00, and L1.0, by Tighe & Bond, by Fuss & O'Neill Inc., dated 5/13/04.

2. Plan – “Darien High School, Synthetic Turf Renovation,” Drawing No. A-101~A-103, by FieldTurf International, Inc., dated 13/04/2004.
3. Existing Conditions Plan – “Existing Conditions, Darien High School,” Sheets 1~4, by Diversified Technology Consultants, dated 1-12-01
4. Engineering Report – “Engineering Report: Darien High School Field and Track, Darien, Connecticut” by Tighe & Bond, dated May 13, 2004.
5. Environmental Report – “EPC Application – Darien High School – Proposed Football Field and Track” by Environmental Land Solutions, dated May 11, 2004 (letter format).
6. Proof of certified mailings, received June 7, 2004 by the Planning and Zoning Office.
7. Project Narrative, Darien High School Field and Track.
8. Description of Proposed Activity, Darien High School Field and Track.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

Although the extraordinary fund raising effort to support the proposed synthetic field and track construction--a testament to private generosity and public spirit--was laudable, the Commission must express concern with the course of action chosen, especially since other such-funded projects may come in the future. The Commission strongly feels that approvals should be sought first from the various town boards that regulate aspects of the property and project prior to soliciting significant amount of dollars. First, the collection of such monies places the Commission in a difficult position, which is asked to perform its sometimes complex analysis after great efforts and fueling of expectations. No Commission should have to be in the untenable position of having to say "no...because," and then having to defend its exercise of authority against criticism from citizens who, in all likelihood, were oblivious to the fact that EPC approval was a necessary prerequisite to the project. Second, properly placing the horse before the cart is also in the applicant's interest because any EPC suggestions and ideas can be incorporated and reflected in the fund-raising plan. Fortunately, in this case, after extensive review, questioning and a public hearing, the Commission endorsed the project. But, had things gone the other way, the Applicant would have had only itself to blame. No applicant should take any Commission for granted in such fashion.

1. Drainage:

The Commission considered the May 13, 2004 engineering report by Tighe & Bond and heard testimony from Joseph Canas, P.E. of Tighe & Bond. As presented, northern zone of the field would discharge toward the modified outlet, and the southern zone would discharge toward new yard drain installed at the entry area between the field and northern parking lot. The new yard drains would then discharge toward the east to a manhole, and conveyed to the small detention area at the east end of the high school property.

The Commission accepts the findings of Mr. Canas that the post-development stormwater runoff patterns would follow the existing patterns and that there would be no impact to the peak flow carried by Stony Brook. It also accepts the findings that the discharge velocity from the northern zone would be reduced by the preformed scour hole and grass-lined channel, and the proposed underdrainage system would provide stormwater drainage.

However, the Commission is concerned with the proposed channel entering Stony Brook at a right angle. It relies on the applicant's assurances that the measures designed in this project will dissipate the volume of water sufficiently so as not create an eddy during a significant storm event that could cause erosion of the bank of the river. The Commission has determined that the matter should be monitored for five years, and that, should it be determined that erosion is occurring, the Commission shall require the applicant to return with prevention, and possible restoration, plan.

## 2. Impact to Wetlands and Stony Brook:

Under its wetland permit review process, the Commission not only limits potential impact to wetlands and watercourses from proposed activity, but, whenever possible, seeks to improve existing conditions.

The Commission reviewed the proposed plan and engineering report by Tighe & Bond, and heard testimony from Mr. Canas, P.E. of Tighe & Bond. The Commission accepts the findings of Mr. Canas that stormwater runoff quality would be improved since the turf field would not require the use of fertilizers, herbicides and pesticides, and that the use of the proposed best management practices, including the riprap dissipater and grass-lined channel, would reduce the total suspended solids (TSS).

The Commission considered the environmental impact of the proposed activity. In doing so, it reviewed the May 11, 2004 environmental report by Environmental Land Solutions, and heard testimony from John Anderson, Environmental Planner/Professional Wetland Scientist, of Environmental Land Solutions. As presented, the existing drainage outlet is unprotected and located within the stream channel, allowing for scouring and sedimentation. The Commission accepts Mr. Anderson's findings that the modified outlet would decrease the erosive potential of the outfall by pulling the outlet back from the edge of the brook and reducing discharge velocities, and that the proposed activity would have no adverse impact on the wetlands and Stony Brook. It also accepts Mr. Anderson's findings, which correspond to those of Tighe & Bond, that water quality would be improved through the use of the proposed best management practices, and eliminating of the use of pesticides and fertilizers that are currently transported into the wetlands system.

The Commission finds that the proposed work activity does not represent an irreversible and irretrievable commitment of the resources. The regulated activity is limited to the work associated with the proposed modification of the existing outlet area.

The Commission considered the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity. It finds that the short term impacts should be mitigated through the use of the proposed sediment and erosion control

measures, which include the use of riprap channels with stone check dams, silt fence and hay bales. It finds that the proposed regulated activity would not detract from the long-term productivity of the wetlands and brook, but should pose an improvement in water quality.

### 3. Review of Feasible and Prudent Alternatives

The Commission accepts the findings of Tighe & Bond and Environmental Land Solutions that the proposed regulated activity does not pose a significant impact to the wetlands and Stony Brook since the work has been minimized and should provide improvement to existing stormwater conditions. Therefore, a finding of a feasible and prudent alternative is not required pursuant to Section 10.3 of the Town's Inland Wetlands and Watercourses Regulations.

### 4. Sediment and Erosion

The Commission is greatly concerned with sediment and other non-point source pollution to our wetlands and watercourses. As the project to bring a turf field to fruition at the high school required a public private partnership to provide funding, so has dredging of our waterways as evidenced by the current Friends of Goodwives River Watershed Restoration Effort and past dredging efforts by Friends of Gorham's Pond. These are costly projects needing to be repeated far too frequently.

The Commission recognizes that the work activity within the regulated area could cause erosion and/or sedimentation, and has reviewed the applicants' proposed steps to prevent significant impact to the resources. The Commission has found that the proposal incorporates both short-term and long-term sediment and erosion controls into the development plan. The applicant proposes temporary controls that would be utilized during the development activity and maintained during the stabilization period following work activity. Permanent controls include the installation a preformed scour hole, grass-lined channel and a 10-foot long riprap apron that transitions into the brook.

It is imperative that all measures be taken to ensure that during construction sediment and erosion controls are in place and maintained. Additional controls beyond those proposed by the applicant may be determined to be required in the field. The attention to this has been lax with ongoing high school development project to the dismay of this Commission.

The Commission shall require that at such point as the turf field needs maintenance involving removal and replacement of the synthetic field surface, that the Darien Public Schools return to the Commission for review of the controls proposed to prevent any of this material entering the underdrainage system and otherwise making its way to Stony Brook.

### E. DECISION:

The Commission hereby approves Wetlands Permit Application #EPC-53-2004, with the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The Commission approves the installation of the synthetic turf field and new running track. The work activity shall be in accordance with the plans submitted to and reviewed by the Commission, entitled:
  - (a) "Darien High School – Field and Track, Darien, Connecticut, May 2004," Sheets C1.00~C5.00, and L1.0, by Tighe & Bond, by Fuss & O'Neill Inc., dated 5/13/04, and,
  - (b) "Darien High School, Synthetic Turf Renovation," Drawing No. A-101~A-103, by FieldTurf International, Inc., dated 13/04/2004
3. Work activity shall occur in accord with the Construction Sequence, page 11~12, of the May 13, 2004 Engineering Report by Tighe & Bond.
4. At such point as the turf field needs maintenance involving removal and replacement of the synthetic field surface, the Darien Public Schools shall return to the Commission for review of the controls proposed to prevent any of this material entering the underdrainage system and otherwise making its way to Stony Brook.
5. The Commission shall monitor the modified outlet where it enters Stony Brook for signs of erosion for five (5) years, and should it be determined that erosion is occurring, the Commission shall require the applicant to return with a prevention, and possible restoration plan.
6. All sediment and erosion controls shall be installed prior to the commencement of work activity as shown on the approved plans and in accordance with the Erosion Control Narrative and Notes, page 11~13 of the May 13, 2004 Engineering Report by Tighe & Bond. The bottom of the silt fence shall be buried a minimum of 6-inches into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately. The anti-tracking pad shall be replaced/maintained as needed.
7. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
8. All areas disturbed by work activity associated with the development project shall be restored to pre-existing conditions.
9. The permittee shall notify the Environmental Protection Commission prior to commencement of work activity, and after the sediment and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and as per plan. All sediment and erosion control measures should be maintained until all disturbed areas are stabilized and revegetated.

10. Any increase in the extent of regrading, development, disturbance or impacts within the wetlands or watercourse, or regulated area around the wetlands, or other significant amendments to the approved plan will require prior submission to and review by the Commission in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations of the Town of Darien. Any structures, excavation, fill, obstructions, encroachment or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation. Upon the initiation of the activities authorized herein, the permittee would thereby accept and agree to comply with the terms and conditions of this permits
11. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or watercourse on or offsite unless specifically authorized by this permit.
12. All equipment and storage of materials during construction shall be maintained outside the regulated areas, to ensure that the wetlands on the eastern portion of the site will be undisturbed.
13. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies. A copy of these other permits and approvals shall be submitted to the EPC to complete the file.
14. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit, including the required plantings, must be met within one year from the commencement of the proposed activity.

The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved.

Discussion and Possible Decision of EPC-53-2004, Friends of Goodwives River, Hope Pond in the Goodwives River, proposing pond dredging, installation of a stone weir, repair of a stone retaining wall, fill activity, habitat restoration, and perform related site development activities within regulated areas. Hope Pond is located on the north side of Overbrook Lane, adjacent to roadway, approximately 130 feet west of the intersection of Rabbit Lane and Overbrook Lane, shown on Tax Assessor's Map #10 as Lots #7, 8, 8C, 8A & 9;

Upon discussion and consideration of the application file, the following resolution was adopted:

TOWN OF DARIEN  
ENVIRONMENTAL PROTECTION COMMISSION  
PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: JUNE 23, 2004  
EXPIRATION DATE: JUNE 23, 2009

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Application Number: EPC-53-2004

Applicant's Name and Address: Friends of Goodwives River, Inc.  
c/o Richard Windels, President  
11 Queens Lane  
Darien, CT 06820

Property Address of Proposed Activity: Hope Pond on Overbrook Lane  
Darien, CT 06820

Name and Address of Applicant's Representative: Fuss & O'Neill, Inc.  
146 Hartford Road  
Manchester, CT 06040

Proposed Activity: Pond dredging, replacement of a failed stone weir with a gabion weir, repair of a stone retaining wall, habitat restoration, and perform related site development activities within regulated areas.

Shown on Tax Assessor's Map #10 as Lots #7, 8, 8C, 8A & 9.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourse Regulations of the Town of Darien, and has found that an approval is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to inland wetlands within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicant's assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a public hearing on June 17, 2004. During the Commission's June 17, 2004 hearing, the applicant's representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission and Commission staff. The general public was provided an opportunity to express their opinions and comment regarding the proposed work activity.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members that participated in the deliberation are fully familiar with the site and its surroundings, finds:

A. PROJECT DESCRIPTION:

The application proposes the maintenance dredging of Hope Pond to restore its original open water habitat and water volume. The restoration should contribute to providing greater sediment control. Approximately 2,250 cubic yards of sediment from a  $\pm 28,000$  square foot (0.65-acre) area extending north from the pond's retaining wall located adjacent to Overbrook Lane. A temporary access ramp would be created, extending from the driveway shared by #6 and #8 Overbrook Lane driveway off of Overbrook Lane into the center of Hope Pond. The access ramp would be removed during the final phase of the dredging process. The sediment weir within the pond would be repaired. The proposed gabion weir would be lower than the existing, failed stone weir and would have a notch for fish passage. All dredged materials would be disposed of offsite. No trees or bushes shall be removed.

The application includes the repair of the Hope Pond retaining wall adjacent to Overbrook Lane. This wall extends along the southern edge of Hope Pond. The repair can be conducted by patching several areas, and does not require the removal of any sections of the wall.

The application proposes a restoration planting plan for certain areas of the Hope Pond Project Area in order to support shoreline habitat zones for waterfowl, amphibians, and other aquatic species.

Mr. Windels withdrew the proposed fill activity and explained that it had been inadvertently included as part of the application.

The dredging of Hope Pond was approved by the Commission on August 6, 2003 under its resolution for Wetland Permit #EPC-66-2003 for the Goodwives River Management Initiative.

B. SITE DESCRIPTION:

Hope Pond is located on the north side of Overbrook Lane, immediately adjacent to the roadway and approximately 130 feet west of the intersection of Rabbit Lane and Overbrook Lane. Evidence of sediment accumulation is clearly visible, as the pond has been completely filled in due to sediment accumulation, which occurred as the Goodwives River watershed has been developed. The sediment accumulation has impacted the pond through the loss of the open water habitat, the smothering of benthic organisms and aquatic plants, and increased water temperatures, which reduce oxygen levels.

C. HEARING PRESENTATIONS AND RECORD:

The applicant and his representatives provided materials to the EPC as part of the record in this matter. These materials were presented and discussed during the Public Hearing of June 17, 2004, and discussed during the Commission's deliberation on June 23, 2004:

1. Plan – “Friends of Goodwives River Dredging Plan – Hope’s Pond, Darien, Connecticut,” Sheet 1, by Fuss & O’Neill Inc., dated May 2002, last revised 3/18/04.
2. Plan – “Construction Details, Friends of Goodwives River, Darien, Connecticut,” Sheet 5, by Fuss & O’Neill Inc., dated May 2003.
3. Shallow Water Planting Plan – “Friends of Goodwives River Dredging Plan – Hope’s Pond, Darien, Connecticut,” Sheet 1, by Fuss & O’Neill Inc., dated May 2002, last revised 3/18/04.
4. Aerial Photograph of Hope Pond & Katy’s Pond, Overbrook Lane and Brookside Road, Summer 1927.
5. Site Photographs of Hope Pond, taken from May 2002 to May 2004 (six photographs).
6. Locator Map and Underlying Property Owners, and List of Owners of Property within 100 feet of project area, Exhibit A.
7. Mailing List for Hope Pond, Neighbors within 100 feet of Project Area, generated by the Town’s Geographic Information System (GIS), dated 5/21/2004.
8. Project Description and Regulated Activities, Exhibit B.
9. Construction Plan, Exhibit C.
10. Proof of certified mailings, received June 8, 2004 by the Planning and Zoning Office.
11. Letter of Authorization from Ann W. Armiger, 10 Overbrook Lane, dated May 23, 2004.
12. Letter of Authorization from Santiago Negre, 6 Overbrook Lane, dated May 23, 2004.
13. Letter of Authorization from Mikiko Gilmore, 8 Overbrook Lane, dated May 23, 2004.
14. Letter of Authorization from Katherine H. Whitney, 4 Rabbit Lane, dated May 24, 2004.
15. Letter of Authorization from Ellie and Adrian Massie, 5 Overbrook Lane, dated May 23, 2004.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

1. Pond Dredging:

Ponds play an important role in the sedimentation and erosion control process that is necessary to protect larger watercourses and waterbodies downstream. Therefore, the Commission encourages the proper maintenance of ponds, with the use of best management practices and methods for pond dredging. The Commission finds that the maintenance dredging should restore the open water habitat of the pond, thereby providing an increase in biodiversity of wildlife habitat and vegetation, and should provide more sediment collection to prevent future sedimentation of downstream areas. In addition, the proposed gabion stone weir should allow for the easier future maintenance and cleaning of collected sediments.

2. Impact to Hope Pond, Wetlands and the Goodwives River:

Hope Pond is part of the Goodwives River watercourse system. Under its permit review process, the Commission not only limits potential impact to wetlands and watercourses from proposed activity, but, whenever possible, seeks to improve existing conditions.

The Commission reviewed the proposed plan and construction narrative for the dredging of Hope Pond by Fuss & O'Neill. The Commission accepts the statements by Fuss & O'Neill that the best management practices, including sedimentation and erosion controls and timing of dredging activity, proposed would protect Hope Pond and downstream areas of Goodwives River.

The Commission finds that restoration of the pond, installation of a fish passage in the weir and restoration of habitat areas should increase the pond's capacity to support fish and wildlife. The replacement of the failed stone weir with the proposed gabion weir should promote sediment control, thereby restoring the pond's ability to protect surface waters and control sediment and pollution. The repair of the southern stone retaining wall located along southern pond edge should promote public health and safety.

The Commission considered the relationship between short-term impacts posed by the regulated activity and proposed long-term impacts and benefits. It finds that the short-term impacts should be mitigated with proper sediment and erosion control methods and restoration plantings, and are off set by the long-term benefits that should enhance the productivity and existing environmental quality of Hope Pond.

The Commission finds that the proposed work activity does not represent an irreversible and irretrievable commitment of resources, but rather a restoration of the impacted pond's open water habitat and water volume, and enhancement of the pond through the introduction of habitat restoration plantings.

3. Review of Feasible and Prudent Alternatives

The Commission finds that the application does not pose a significant impact to Hope Pond, associated wetlands, or Goodwives River. To the contrary, the Commission is of the view

that the application will substantially protect, restore and enhance those precious resources. Therefore, a finding of a feasible and prudent alternative is not required pursuant to Section 10.3 of the Town's Inland Wetlands and Watercourses Regulations. However, the Commission finds that the alternative of "no activity" is not prudent, as the Hope Pond has been completely filled due to sediment accumulation, which occurred as the Goodwives River watershed has been developed.

4. Sediment and Erosion

The Commission recognizes that the dredging work activity within Hope Pond and associated activity within regulated areas could cause erosion and/or sedimentation, and has reviewed the applicants' proposed steps to prevent significant impact to the resources. The Commission has found that the proposal incorporates both short-term and long-term sediment and erosion controls into the development plan. Temporary controls will be utilized during dredging activity and are proposed to be maintained during the stabilization period following work activity. Permanent controls include the repair of the failed stone weir and southern stone retaining wall, and the installation of habitat plantings within the pond and buffer area.

E. DECISION:

The Commission hereby approves Wetlands Permit Application #EPC-53-2004, with the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The Commission approves the dredging of Hope Pond. The work activity shall be in accordance with the plans submitted to and reviewed by the Commission, entitled "Friends of Goodwives River Dredging Plan – Hope's Pond, Darien, Connecticut," Sheet 1, by Fuss & O'Neill Inc., dated May 2002, last revised 3/18/04, and "Construction Details, Friends of Goodwives River, Darien, Connecticut," Sheet 5, by Fuss & O'Neill Inc., dated May 2003.
3. Work activity shall occur in accord with construction plan (narrative), Exhibit C – Construction Plan, by Fuss & O'Neill.
4. No fill and regrading activity is approved for Hope Pond Project Area. All dredged materials must be taken offsite.
5. The dredging activity shall commence between July to September 2004. If the permittee is unable to commence work activity during this period or if this period is subject to heavy rainfall, the work shall not commence until the summer of 2005.
6. Fuss & O'Neil, Commission Staff and the contractor meet at the pond for a pre-construction meeting

7. A copy of the approved plans shall be provided to the contractor prior to the pre-construction meeting. A letter from the contractor should be submitted to the EPC, c/o the Planning and Zoning Office, to confirm receipt of the plans and acknowledge that work shall not deviate from this approval.
8. The habitat/restoration plantings shall be installed as shown on the approved plan by Fuss & O'Neill, Sheet 1, last revised 3/18/04. The plantings are an integral part of the approval and therefore must be completed prior to the closing of the project area and the commencement of any downstream ponds.
9. All sediment and erosion controls shall be installed prior to the commencement of work activity as shown on the approved plans. The bottom of the silt fence shall be buried a minimum of 6-inches into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately
10. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
11. All areas disturbed by work activity associated with the dredging project shall be restored to pre-existing conditions.
12. It is recognized that the permittee hopes to continue its maintenance efforts with the future dredging of downstream ponds. In that regards, pond dredging shall begin at Hope Pond, the northern most pond, and continue south. No activity, including stockpiling, shall occur at two ponds at once. Work shall not begin at an additional project area until all activity at Hope Pond is completed, including but not limited to the removal of all dredged materials, installation of required restoration plantings, and stabilization and restoration of all disturbed areas. The applicant shall contact the Planning and Zoning Office for inspection to confirm that work may begin the next pond/project area.
13. That a performance bond be posted, in the amount budgeted, with the Planning and Zoning Office to ensure the work activity is completed in accordance with this approval, prior to the commencement of site activity. A copy the contractor's bid sheet listing the budgeted amount shall be submitted to the file, **no later than July 7, 2004.**
14. Any increase in the extent of regrading, development, disturbance or impacts within the wetlands or watercourse, or regulated area around the wetlands, or other significant amendments to the approved plan will require prior submission to and review by the Commission in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations of the Town of Darien. Any structures, excavation, fill, obstructions, encroachment or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation. Upon the initiation of the activities authorized herein, the permittee would thereby accept and agree to comply with the terms and conditions of this permits

15. The permittee shall notify the Environmental Protection Commission prior to commencement of work activity and after the sediment and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and as per plan. All sediment and erosion control measures should be maintained until all disturbed areas are stabilized and revegetated.
16. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or watercourse on or offsite unless specifically authorized by this permit.
17. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies. A copy of these other permits and approvals shall be submitted to the EPC to complete the file.
18. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit, including the required plantings, must be met within one year from the commencement of the proposed activity.

The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved.

Executive Session:

After a majority vote, the Commission moved into a second executive session to discuss pending litigation.

Adjournment: Having no further business to attend to, the Commission adjourned the June 23, 2004 meeting at approximately 10:45 p.m.

Respectfully submitted,

Nancy H. Sarnier  
Environmental/GIS Analyst