

**Town of Preston  
Inland Wetlands and Watercourses Commission  
Tuesday, March 15, 2022  
7:30 pm  
Preston Plains Middle School  
Regular Meeting**

**1. Call to Order**

Doug Fox called the Meeting to order at 7:36 pm

**Roll Call**

Chairman Moulson took Roll Call

**Regular Members**

John Moulson – Chairman  
Gerald Grabarek – Vice Chairman  
Doug Fox – Secretary  
Paul Andruskiewicz  
Chuck Bartnicki  
Ian Stammel  
Zach Tarner

**Alternates**

Rebecca Hayes  
Henry Wrigley

**Also Present**

Len Johnson – IW Agent  
Roberta Charpentier – Recorder

**2. Approval of Minutes**

February 15, 2022 Regular Meeting Minutes

**A motion was made by P. Andruskiewicz and seconded by C. Bartnicki to accept the Regular Meeting minutes of February 15, 2022 as amended.**

**All in favor. Motion carries**

Page 3, New Business; Application #2022-03 - Tom Haack is name of Applicant

Public Hearing Minutes of March 1, 2022 3

**A motion was made by P. Andruskiewicz and seconded by J. Grabarek to accept the Public Hearing Meeting of March 1, 2022 as presented.**

**Ian Stammel abstained All other members were in favor. Motion carries**

**3. Communications**

- a) CLA Engineers, Inc. Invoice #4, CL-19-5918W dated February 10, 2022 in the amount of \$240.00 for drainage review of revised plans dated February 4, 2022; Blue Water CT, LLC (please see both sides of attached).
- b) Joseph R. Theroux's invoice dated December 28, 2021 for \$1500.00 and his report dated November 1, 2021: Perform Wetland Function & Value/Wetland Impact Assessment for 63 Branch Hill Road, Preston.
- c) Letter dated February 11, 2022 from The Connecticut Audubon Society to IWWC regarding a review of Rema's Wetland Assessment and Impact Analysis for the Recreational Campground Resort at Avery Pond.

- d) ECCD Outlook Plant Sale 2022 Edition.
- e) Wetlands Agent Report dated February 11 – March 9, 2022.
- f) IWWC Application Status.

#### **4. Old Business**

a) Inland Wetlands Application #2022-01, Timothy Bowles, Applicant/Owner for property located at 115 River Road; Existing lot with one new building lot in upland review area.

**A motion was made by D. Fox and seconded by I. Stammel to approve IW Application #2022-01, Timothy Bowles, Existing lot with one new building lot in upland review area, with a \$500 bond.**

**All in favor. Motion carries.**

b) Inland Wetlands Application #2021-12, Blue Camp CT, LLC, Applicant and The Mashantucket Pequot Tribal Nation, Owner for property located at 451, 455 & 495 Route 2; Development of a comprehensive luxury recreational campground.

*Continuation of Public Hearing  
See Public Hearing Minutes*

#### **5. New Business**

a) Approval of CLA Engineers, Inc., Invoice #4, CL-19-5918W dated February 10, 2022 in the amount of \$240.00 for drainage review of revised plans dated February 4, 2022; Blue Water CT, LLC (please see both sides of attached).

**A motion was made by I. Stammel and seconded by P. Andruskiewicz to approve CLA Engineers, Inc., Invoice #4, CL-19-5918W dated February 10, 2022 in the amount of \$240.00.**

**All in favor. Motion carries.**

b) Approval of Joseph R. Theroux's invoice dated December 28, 2021 for \$1500.00; Perform wetland function & value/wetland impact assessment for 63 Branch Hill Road.

**A motion was made by I. Stammel and seconded by C. Bartnicki to approve Joseph R. Theroux's invoice dated December 28, 2021 for \$1500.00.**

**All in favor. Motion carries.**

#### **6. Continuation of Public Hearing**

Inland Wetlands Application #2021-12, Blue Camp CT, LLC, Applicant and The Mashantucket Pequot Tribal Nation, Owner for property located at 451, 455 & 495 Route 2; Development of a comprehensive luxury recreational campground.

*Chairman Moulson recessed the Regular Meeting at 7:45 pm  
The Regular Meeting reconvened at 11:03 pm*

#### **7. Violations & Orders**

None

#### **8. Wetlands Agent Report**

Wetlands Agent Report dated February 11 – March 9, 2022.  
No discussion

#### **9. Other Matters**

None

**10. Public Comment**

None

**11. Legal Actions**

None

**12. Adjournment**

The meeting was adjourned at 11:03 pm

Respectfully submitted,

*Roberta Charpentier*

Roberta Charpentier  
Preston Recording Secretary

**Town of Preston  
Inland Wetlands and Watercourses Commission  
Tuesday, March 15, 2022  
8:00 pm  
Preston Plains Middle School  
Public Hearing (continuation)**

**Call to Order**

Chairman Moulson called the Public Hearing to order at 8:00 pm.

**Roll Call**

**Regular Members**

John Moulson – Chairman  
Gerald Grabarek – Vice Chairman  
Doug Fox – Secretary  
Paul Andruskiewicz  
Chuck Bartnicki - recused  
Ian Stammel – recused  
Zach Turner – recused

**Alternates**

Rebecca Hayes - seated  
Henry Wrigley - seated

**Also Present**

Len Johnson – IW Agent  
Roberta Charpentier – Recorder  
Attorney Harry Heller  
Attorney Andrew McCoy  
Emily Demarco Blue Camp Project Manager  
Will Walter, Project Design Engineer - Nash Engineering  
Ryan Deen, Landscape Architect – Nash Engineering  
George Logan – Wetland Scientist/Ecologist  
Carl Nielson, Limnologist

*Chairman Moulson seated alternates R. Hayes and H. Wrigley*

**Inland Wetlands Application #2021-12, Blue Camp CT, LLC, Applicant and The Mashantucket Pequot Tribal Nation, Owner for property located at 451, 455 & 495 Route 2; Development of a comprehensive luxury recreational campground.**

Attorney Harry Heller stated that he is representing the applicant Blue Camp CT, LLC and the Mashantucket Pequot Tribal Nation.

Attorney Heller stated that he received two emails from Zoe Belcher who testified to this Commission at the March 1, 2022 Public Hearing concerning the testing of PFAFs on the site and her professional opinion on what that testing determined.

The first email was dated March 2nd and noted that Jerry Grabarek telephoned her regarding the PFAF report explaining that he was having a hard time reading it. He asked if the Mashantucket

Pequot Tribe admitted that the farmer had spread waste. He also stated that he thought the IWWC would have to deny the application and he was sending her report to Shannon Pociu at DEEP.

The second email was dated March 9<sup>th</sup> and said Jerry Grabarek called again asking if she was sending the report to him. *"He said Shannon Pociu wanted a copy of the report; I told him he would need to get your authorization"*.

Attorney Heller stated that these are contacts by a Commissioner during the course of a Public Hearing process where the applicant is represented. When a Commission is debating an application, the entirety of that review occurs in the four corners of the administrative process and in this case the Public Hearing process, contact by the Commission member was inappropriate and taint this whole proceeding. We as the applicant's development team have a problem with these communications, by a Commission member. We think it's inappropriate and we think Commissioner Grabarek should recuse himself

Jerry Grabarek stated has anyone looked at her report and try to read that fine print? So what I wanted her to do is email me a copy because I wanted to send it to the State contact Shannon Pacio because she's the expert as far as I'm concerned versus Zoe who is working for the applicant. Why can't I get that?

Attorney Heller stated that is totally inappropriate contact by a Commission member.

There was a statement in the March 2<sup>nd</sup> email in which Zoe Belcher said he also slipped in there that he thought they were going to have to deny the application. Whether or not there was discussions among Commission members I have no knowledge, certainly in this communication there is an inference that this matter has been discussed while the Public Hearing is continuing, while the Commission is still receiving evidence obviously outside the proceeding of this commission.

Chairman Moulson stated that he does not know of anyone who has discussed this with anyone else.

Attorney Heller noted that he is just stating this for the record and will introduce the 2 emails he received into the record.

J. Grabarek said I certainly did not say that to her.

Attorney Heller stated the next topic he will address are the comments at the March 1<sup>st</sup> meeting regarding stormwater retention basin on the westerly side of the site with Tisbury Soil.

Commissioner Grabarek stated he investigated the site and found it to be soft and that he had sunk in up to his boots in that area.

Attorney Heller stated he investigated the site with Attorney McKoy on Saturday after a significant rain storm. There was no standing water and I did not sink in at all. Either the information is untrue or Commissioner Grabarek did not understand where he was on the site. Because in that field before you get into the wooded area, the delineated wetlands had standing water but the area where the retention basin area is proposed had no standing water and was as solid as it is out in the main field in the upper elevation.

I am stating for the record you have both boring rods and test pits that were performed by Hayley and Aldrich, retained to do the soil investigation on this site. Those third party soil borings and tests were used as the basis for the design that has been submitted for consideration. And they represent the substantial evidence for the record as to the characteristics of those soils.

A report was submitted into the record by Northeast Aquatic Services with speculation concerning impacts to Avery Pond. The report came to no conclusions as to an adverse impact to Avery Pond. It raises questions and criticizes the methodology that was used but does not opine to an adverse impact. As a result of that report into the Public Hearing record the applicant has retained the services of Carl Nielson who is a Limnologist and certified Lake Manager. He recommended that we establish a 50' no disturbance zone in order to address impacts to water quality in the pond.

We decided to modify the plan by adopting a universal 100' setback.

Highlights of Plan revisions dated March 9<sup>th</sup>;

- Removed activity on peninsula and disturbance of 800' feet of wetlands with construction equipment
- No permissions for direct disturbance to any wetlands or watercourses
- Removed all disturbance around the southern periphery of Avery Pond, creating an undisturbed 100' foot buffer from high water line to the limit of any disturbance
- 4 acres of disturbed upland review area has been removed
- Removed the floating dock and boardwalk

Carl Nielson stated he was very encouraged by the development team who heard his opinion and made the changes.

The 100' buffer takes out a lot of the impacts listed by Jean Pillo as well as others. That took care of any runoff from developed areas going into the Lake.

There is a lack of data on the Lake, so recommending the team get some data this summer before development to establish current conditions and then track over the next few years to develop an understanding of the lake and alleviate some of the concerns.

D. Fox asked if C. Nielson's expertise includes watercourses.

C. Nielson answered he is not a wetlands expert, although he deals with lakes which are a type of wetland.

D. Fox asked how about watercourses?

C. Nielson answered rivers and streams, yes.

D. Fox asked have you evaluated any of the other areas like where the stream outlet is.

C. Nielson answered, I was concerned with the outlet because it went away from the lake opposed to flowing into the lake which is what I was trying to determine when looking at it.

My job was to learn what impact this development would have on the lake itself. If it flows away from the lake, then it doesn't impact the lake as much.

Attorney Heller stated in the Knocklein report he wrote his opinion on the effectiveness of stormwater quality basins to filter out pollutants, however this project has been designed to meet or exceed the requirements of DEEP's 2004 stormwater quality manual.

George Logan wrote a report for DEEP on recommendations on buffer zones for watercourses.

What was quoted in the previous meeting was out of context.

Will Walter stated there was discussion questioning the effectiveness of a basin, was it truly getting treated and what happened when it over flowed into Avery Pond.

W. Walter explained how, during any significant rain events water will be flowing from Avery Pond south under the road to the stream system. There is no case, during a rain event that water will get to the retention basin and then get to Avery Pond

Attorney Heller explained that in order to rule on an application there must be substantial evidence in the record of proceeding in order to support your decision.

Attorney Heller explained that the IWWC is not an environmental protection agency, your function is to determine whether or not the application results in pollution or results in an adverse impact to the wetland watercourse resource.

There is no substantial evidence in the record of the proceedings before this Commission that the Plan as it has been revised through the Public Hearing process will result in pollution or an adverse impact on wetlands or watercourses.

Chairman Moulson asked if the public had questions

Sean Tate, 18 Overlook Drive stated his drinking water comes from 2 artesian wells owned by the Preston Plains Water Company and asked how this project will effect those wells.

Chairman Moulson asked where the wells are located.

S. Tate answered Lynn Drive

Will Walter noted that Planning & Zoning asked this question. The Preston Plains Water Company said they have enough capacity for this project as well as maintaining the level of service provided to existing clients.

S. Tate noted that W. Walter is referring service and capacity, I am concerned about water quality.

Attorney Heller stated I want to be considerate, but I also want to be firm that we stay in the existing jurisdiction of this Commission. This Commission is authorized by Statute to regulate impacts to wetlands and watercourses. Groundwater drinking water is not within your permitted jurisdiction. I will answer this question and the answer is, this project has been designed in accordance with the 2004 stormwater quality manual which is the standard. When you comply with a standard, there is no adverse impact.

Peter Rostenberg, 72 Lakeview Drive stated he is a former physician and part time Director of Health. No formulation is going to determine the future of those wells. You put another few straws in that water source and then you're going to find out what's wrong and what's right. The wells need a yield test and a recharge test.

Steve ?, 107 Cooktown Road stated that tonight's changes to the Plan were significant and it would seem this type of study and detail would have been done up front, not due diligence on the fly. We have not seen a wildlife expert and at the last public hearing it was asked that an expert through the National Diversity Database, Connecticut DEEP be reviewed before this application is considered and processed. When the species are gone, it will be too late to address the issue.

Attorney Michael Carey, Suisman Shapiro Attorneys at Law stated that given the significant changes and the late date that they've come in, I would argue that either the Hearing be continued or the Application withdrawn and start over again.

In terms of substantial evidence in the record as to impacts, the intervention petitions my clients submitted had attached to them a report by Professor Loomis formerly of Connecticut College and an expert in the fields of which he wrote. Professor Loomis opined that there were insufficient studies of the Pond done before the application was filed.

Attorney Carey submitted a copy of a Connecticut Supreme Court Decision and discussed the case:

293 Conn.93  
Supreme Court of Connecticut  
Unistar Properties LLC  
v.  
Conservation and Inland Wetlands Commission of the Town of Putnam et al.  
No. 18321  
Argued April 21, 2009  
Decided Aug.18, 2009

Attorney Carey stated that he is not going to get involved in the matter of whether a member of this Commission should recuse themselves or not. That is up to each member of the Commission to make a decision based solely on the evidence presented at the proceedings. But I will urge you not to be intimidated by anyone involved in this proceeding. I do think that the gentleman who was called out today could be criticized no matter which way he votes on this Application if he doesn't recuse himself. People in the audience who have been questioning the Application might have reasonable reason to wonder whether that gentleman was intimidated by being called out. However, Attorney Heller did what he had to do to properly represent his client.

Pat Monahan, 15 Lakeview Drive, President Amos Lake Association

*See Preston Website*

Exhibit #79 dated March 15, 2022 from Patricia Monahan of 50 Lakeview Drive regarding comments on Blue Camp CT, LLC

P. Monahan asked Carl Nielson how much time he spent on the property and what type of data collection was acquired, and the dates you were there.

Carl Nielson answered that he was on the property today. His analysis does not need on the water collected samples. My analysis is designed to assess how much impact from the property currently occurs, how does that piece of land impact the lake. Then we look at how that's going to change.

Jennifer Holstein, 12 Lynn Drive explained that she asked George Knoecklein if she could retain him but he said he was too busy but would assess the project. J. Holstein insisted on compensating him and wants to make it clear he has been volunteering but now will be sending an invoice that she will pay.



Attorney Michael Carey asked Carl Nielson if the phosphorous levels in the charts on pages 2 and 3 are based on the actual levels at the property or are the numbers accepted level in your field to be used as a model.

C. Nielson answered that they are accepted numbers that are accurate for the site.

Andrew Stockton, 16 Lynn Drive asked why would you proceed with an investment of this magnitude with not having guarantees as to whether you have the requested 24,000 gallons a day water supply?

Will Walter answered I am not aware of any Department of Public Health jurisdiction, all we know is we were required to get a letter for capacity from the water company and that is what we received.

Attorney Heller stated this has nothing to do with Inland Wetlands and Watercourses. This question may be answered by Planning & Zoning but it has nothing to do with this proceeding.

Margaret Gibson, 154 Watson Road thanked the residents for their important questions.

Paul Andruskiewicz asked George Logan about determining the reasons for a buffer zones due to the intensity of the proposed activity; how would you classify this Application?

George Logan answered it's not a Walmart, or a commercial establishment with consistent traffic and it's seasonal.

Paul Andruskiewicz asked about a building on the Plan.

Attorney Heller stated that was a bath house and it's been eliminated.

Paul Andruskiewicz asked Gary Piszczek , Preston Conservation Commission if the CAC would be commenting further.

G. Piszczek answered that CAC would like to see the buffer extended all the way to Indiantown Brook.

Doug Fox asked in the south east corner what is the distance from the site to the wetland?

Attorney Heller answered that it varies.

Chairman Moulson asked and was shown the brook on the Plan.

D. Fox asked if there is a maintenance plan.

Attorney Heller answered there is both a construction maintenance plan and a permanent maintenance plan in the narrative.

D. Fox asked how does the Town know the maintenance is being performed.

Attorney Heller answered Len Johnson, IW Agent has the authority to go on the property and inspect it at any time.

D. Fox asked will there be any educational plan for the campers to let them know what is acceptable when near wetlands. For example, trampling, creating erosion, littering.

Attorney Heller answered there will be a wetlands posting as suggested by your soil scientist.

The location and the signage are now included in the Plan. The campground also has its own set of rules and policies that are provided to each camper as they enter.

Emily Demarco stated that it is also posted on the website when they register and included in the registration packet. There is management and maintenance on site.

D. Fox asked what the wetlands sign will say.

Attorney Heller read from the Plan *Wetland boundary do not encroach to help prevent future encroachments firewood scavenging or cutting of vegetation.*

Susan Sliker, 6 Lynn Drive asked what happens if something is disturbed in wetlands. Is that a IWWC problem or a Blue Water problem for the clean-up? Who is responsible?

Emily Demarco answered that Blue Water is responsible.

Chairman Moulson asked if people will be allowed to leave their campers there over the winter. Attorney Heller answered no. blue Water do have 30 campers that they own and rent and those will be there over the winter.

Gary Piszczek stated that the CAC would like to see a 100' buffer go all the way to Indiantown Brook, the glamping eliminated. The CAC recommends that the Inland Wetlands Commission rejects any activity in the entire upland areas.

G. Piszczek asked if the sediment and erosion control system will be monitored during the winter.

W. Walter answered that this project will be subject to a DEP construction general permit which requires professionals to be out there every week.

G. Piszczek asked who monitors after construction.

Emily Demarco answered there are full time employees on site year round.

G. Piszczek asked if there is going to be mosquito control and if so will wildlife impact be monitored due to the spraying? And does the Town have any control or input on that?

Emily Demarco answered that Blue Water will work with a local vendor to get recommendations and have a maintenance plan.

Attorney Heller stated he would like to address topics and questions brought up;

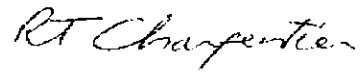
- A lot of testimony has been heard during these proceedings about birds and animals in the upland habitat. Those are not within the permitted jurisdiction of this Commission. That is made clear by the Case Law and Statutory Amendments that were incorporated after Avalon Bay was decided.
- All the most recent changes made have lessened impacts on the wetlands and watercourses and if the Public Hearing is closed this evening, it is still permissible to accept opinions from the Town's consultants based on the evidence on the record in the proceeding.
- The original application for the Pond was submitted and had characterization of upland activities. The landscaping will be completed by the time the project is open.
- The project has a secondary emergency access which is provided on the Plan.
- Reports presented by Blue Water indicate there will be no adverse impact on Wetlands.
- Regarding the CAC's comments recommending activity be eliminated from the 100' upland review area. The CAC has the right to determine an adverse physical impact; it is not a no build zone.

Attorney Heller noted that this has been a long proceeding and on behalf of the applicant's team we thank you for your consideration.

IWWC  
Public Hearing  
March 15, 2022

*Chairman Moulson closed the Public Hearing at 11:02 pm*

Respectfully submitted,

A handwritten signature in cursive script that reads "Roberta Charpentier".

Roberta Charpentier