

City of Danbury
Environmental Impact Commission
155 Deer Hill Ave., Danbury, CT 06810

DEIC MINUTES

May 28, 2008

Common Council Chambers 7:00 PM

The meeting was called to order by Chairman Bernard Gallo at 7:09 pm. Present were Gallo, Jon Fagan, William Mills, Bruce R. Lees, Alt. Mark Massoud, and Craig Westney. Five Commissioners are present at the meetings start, Gallo announced.

Absent were Matthew Rose, Jessica Soriano, Alt. Kurt Webber.

Staff present were Daniel Baroody, RS, MPH, and Patricia Lee, Secretary.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mills at Gallo's request. Mark Massoud is seated as an alternate, Gallo announced.

EXECUTIVE SESSION AND POTENTIAL ACTION:

EIC **723 RR**, 193-207 Great Plain Road, Savannah Hills Subdivision (Cordeiro), Sycamore Trails Group, LLC, RA-80 Zone. (EIC denied application # **723** on 2/20/07. Appeal rec'd. 3/9/07.) Fagan made a motion to go into Executive Session, and Chairman Gallo invited Corporation Council Robin Edwards to join them. Mills seconded the motion. The motion carried unanimously at 7:10 pm and Commissioners went into the Caucus Room next door to Chambers. The tape recorder was shut off. Attorney Edwards and the Commissioners emerged from Executive Session at 8:11 pm. Gallo said we're back in regular session. Lees made a motion to have staff **request additional information** from the applicant. Fagan seconded the motion, and the motion carried unanimously.

SHOW CAUSE HEARING FOR CEASE & DESIST ORDERS:

Cease & Desist Order: 35 Miry Brook Road, Batista, 4/3/08, tabled to 5/28/08 meeting for restoration plan. Atty. Neil Marcus sent in a letter today requesting to **table** this for 30 days as Batista's tenant is still vacating. Gallo summarized that letter. Lees and Fagan said no problem. This is continued another 30 days, Gallo said.

OLD BUSINESS:

Reynolds Road

Regulated Activity # 639 R

Sterling Construction Management, LLC Assessor's Lot#H08108, RA-40 Zone.

Date of Receipt: 2/27/08.

Stairs to Candlewood Lake.

First 65 Days: 5/2/08. Second 65 Days: 7/6/08. G. Kendall. Detailed planting plan & letter from FirstPower requested 3/12/08. Tabled 4/23/08, 5/14/08. Extension ltr. received 5/9/08. Gallo introduced this. Dan Baroody took the mic and identified himself, saying we are still waiting for comments from the power company. We ask it be **tabled**. Fagan made a motion to table. Lees seconded the motion, and the motion carried unanimously.

10-14 Gregory Street

Regulated Activity # 794

Stephen Papish

Assessor's Lot # G13037, RA-40 Zone.

Date of Receipt: 4/9/08.

2-lot residential subdivision, Artel Eng.

First 65 Days: 6/13/08. Second 65 Days: 8/17/08. % Radial Bearing Corp. Danzer comments rec'd. 5/13/08 & 5/27/08. Kornhaas distributed revisions 5/14/08. Screening report 5/28/08 by D. Baroody. Gallo introduced this issue at 8:15 pm. Mark Kornhaas, PE, identified himself. We received and reviewed Dan's report, and we have no issues with it. Dan Baroody said I want to submit for the record the project screening report. The applicant has worked with the Health Department to move the house farther away. Gallo asked are there any questions? Fagan said he had no questions, and he thanked applicant for working in timely way with City staff. Fagan made a motion to **approve** the with conditions. Mills seconded the motion. The motion carried unanimously. Westney excused himself from the panel for a moment.

262 Great Plain Road

Regulated Activity # 795

Egret Properties, LLC

Assessor's Lot # J04197, RA-20 Zone.

Date of Receipt: 4/9/08.

New SF residence construction, well, septic.

First 65 Days: 6/13/08. Second 65 Days: 8/17/08. Wana Rest. CCA, LLC. Dwelling is staked 5/7/08 per M.Scully. Site visit 5/12/08 Baroody, BM. FirstLight, & seepage analysis requested 5/14/08. Comments rec'd. 5/28/08 from Candlewood Lake Authority. Rod Cameron, PE, project manager, of CCA, LLC, took the microphone. We have performed the seepage analysis, but we just received today the comments from CLA, and we'd like to wait to review those. Larry Marsicano is on Cape Cod. Bill Mills made a motion to **table** this. Fagan seconded the motion. The motion carried unanimously at 8:17 pm.

89 Triangle Street

Regulated Activity # 796

Alan Lourenco / DRT, Inc.

Assessor's Lot # J14277, IL-40 Zone.

Date of Receipt: 4/9/08.

Site expansion, parking, auto service.

First 65 Days: 6/13/08. Second 65 Days: 8/17/08. B.V. Doto, III, PE. Revisions rec'd. 5/14/08. Letter regarding environmental assessment rec'd. 5/22/08. Ben Doto, PE, came forward and set up the plan on the easel, identified himself at the mic, saying I am representing the applicant at 89 Triangle Street. Doto gave a brief history of this application and said minor additional information was requested, and he described what he has now to offer. To answer the question about environmental assessment of this industrial site, this property has not changed hands, and that's what usually prompts such an environmental assessment. Mr. Lourenco is here and he is willing to comply, and he referred to a device called a "sniffer"; a screening tool that's used when you are looking for hydrocarbons. Samples will be taken; there's no real need to do a Phase II. He'll be glad to answer any questions about his practices on the site, Doto said. Also, keep in mind, with any potential for futures spills, our system there will catch that; the oil-water separator, which will catch that. I'll coordinate a meeting with Dan Baroody. Mills asked Doto, you've agreed to screening the soil with the OC sensor, and it's been in the family 40 years; if applicant has no objection, can we get a Phase II done before? You're going to send someone out there. Why can't we do it before,

Mills asked, check the soil prior to beginning the project? Doto said I've been out there; I do have some knowledge of soil testing. Could we go out there and dig a few more holes? Absolutely. Doto explained that doing it right now would really disrupt the truck stop and service operation. I think it would be better to do it before construction is started. If something is found there, we will stop. My area was limited to this area, Doto continued. The question is does it matter: before or after? Mills asked what staff would recommend. Doto explained a backhoe and a linear trench were very good tools in exposing any polluted soil. If something is found, we will then be back in front of you. That's my personal opinion, Doto said.

Dan Baroody said to Mills, what was it you were asking? For the record, Mr. Westney is back now. Mills replied Mr. Doto said it would be more advantageous to assessing it when they are digging up the whole site, versus doing some test holes.

Baroody interjected there are advantages and disadvantages to both. Usually the tester will have a disclaimer in there, but there's always a chance you're going to find more stuff. Baroody described what methods could be used to investigate. That's why we need more time to go over that strategy. We may want to have them do the other as well as during construction, Baroody said. Massoud said, to add my 2 cents, I somewhat agree with Ben. During actual construction, if any pollutant makes itself known, they really ought to stop and notify DEP of that finding, Massoud said. I just had an oil tank removed from my property, which Massoud described. The DEP would then come down and approve of remediation of the site. Doto reiterated if something is found at that time, you take the appropriate actions then. I understand where the comment is coming from; my client is willing to screen that. Gallo said you have to get with Dan, I think. Ben explained to Mills that if one is using the proper environmental experts, they are bound to report any findings. It's my experience that when you are digging up the entirety of the site, you get to see a lot more than just by poking a few holes. I did this in Bethel next to the railroad tracks at that gas station site. It delayed construction a bit. But you don't know. It's a lot more, in my opinion, than you are going to get digging some holes, Doto concluded. Fagan made a motion to **table**. Lees seconded the motion, and the motion carried unanimously at 8:32 pm.

Pembroke Road

Regulated Activity # 770 R

Roger L. Crossland

Assessor's Lot # G07044, RA-40 Zone.

Date of Receipt: 4/23/08.

Proposed day care center, 2.503 acres.

First 65 Days: 6/27/08. Second 65 Days: 8/31/08. CCA, LLC. Cameron showed his revisions 5/14/08. Existing drainage map rec'd. 5/20/08. Gallo introduced this. Rod Cameron, PE, took the mic, and identified himself, and reviewed what was requested at the last meeting. We did submit the drainage map at Barnum Road. Fagan said thank you. Gallo asked you have not looked this over yet, Dan? Lees asked Cameron why can there not be an entrance from Cannon Drive or Barnum Road? Cameron replied that intersection is an extremely busy intersection. This is for children. You have better sight distances. You can enter from Cannon Drive, but in my opinion, it's safer from Pembroke Road. Cameron and Lees discussed safety, traffic is not our issue, understanding each other's points, especially for a day care center; and the safest way we have is the entrance from Pembroke Road, Cameron said. Lees inferred that the applicant was refusing to consider this entrance alternative. Cameron responded I'm not refusing to offer the alternative. Lees and Rod Cameron continued discussing this at 8:36 pm, safety, crossing wetlands, not filling the wetlands, that the Commission has said that that's a watercourse. Westney addressed Cameron: Mr. Lees is talking about coming off of Cannon Drive. Did you look at coming further north on Pembroke Road? Rod Cameron stated that's even closer to the wetlands. Westney asked him did you look at an access further north? What is that distance to the wetlands? Cameron got

his scale out and used it at the podium: roughly 100 feet to the intersection; too close from a safety standpoint. There was no traffic study required for this, Cameron responded to Westney's query. Westney and Cameron continued discussing the proposed use not requiring a traffic study. Yes, there are alternatives in answer to your question; at any point along there, conceivably, we could put access, Cameron said. Massoud said it's reasonable to ask for an alternative. Lees said I did visit the site and there is plenty of real estate there, and he discussed the intersection; but again we are not talking about traffic. The watercourse, wetland: whatever you're calling it. Massoud and Lees agreed that we still have time. Certainly, we will provide that, if it's permissible by the City. Fagan said one more thing: the point we are arguing is that a wetland has been identified as a watercourse and we should refer to it as that. Dan Baroody said to summarize, we are asking the applicant for an alternative analysis; you can ask for that. They can come up with 1 or 2 or 3, and we evaluate them. Lees made a motion to **table**. Fagan seconded the motion. The motion carried unanimously at 8:44 pm.

NEW BUSINESS:

Milestone Road

Regulated Activity # 801

Yankee Gas Services Company Assessor's Lot # , Gate Meter Station.

Date of Receipt: 5/28/08. Milone & MacBroom. WCI Communities, Inc.

First 65 Days: 8/1/08. Second 65 Days: 10/5/08. Dong L. Le, Staff Engineer. Jon Fagan recused himself from this application, and if it is okay, I'll go home now, he said. We'll meet 9 am Friday (subcommittee). Bob Farnum of YankeeGas identified himself and described the purpose of the application. A gate station is a facility we use to purchase the gas from a facility. The one on East Pembroke Road was built in the 50's, and it has reached capacity. Danbury growth requires more. I can answer any questions, Farnum said. Massoud said I have one quick question on the location. Farnum replied it's on East Pembroke Road. I'd have to get a map as I don't know the street names. Lees, Farnum, Gallo and Massoud described the vicinity. Mills said I have a question: I live on Benson Drive, and just recently they put a reinforcement in my neighborhood as a safety item so it could handle more gas. Give me an explanation please. Farnum described the greatest load growth, what got us through this winter; as the load increased, we'll run a new line basically around the airport and feed back into the center of Danbury. The first step is to go from a 30 lb. system to a 100 lb. system; 99 actually, Farnum said. Ted Hart, PE, of Milone & MacBroom Engineering, identified himself and his address. I'm here to present the site plan for the gate station. Using the easel, he said I believe this is called The Reserve; on Milestone Road, where the gas lines cross the road. Hopefully you are all familiar with the location; just south of the interchange on Milestone Road here. I have a blow up of the detail of the area. The Light brown area here shows the proposed site. Topography runs from a high area on the west, left hand side of the paper, down towards Milestone Road. A biological assessment of the wetlands has been done, which Mr. Hart discussed: the north intermittent watercourse running west to east; we are trying to keep away from that as much as possible. We curved to come around the wetland to get into our site. It will have two buildings: 21 x 23 feet, 21 x 72 feet, concrete prefabricated structures. They are going to dress it up. It will be fenced and gated for security. Hart discussed the tap into the line, then covered over; you won't know it's there. It will be a grassed meadow area along the pipeline as it goes up and over the hill. Hart discussed briefly the sedimentation and erosion control plan; no catch basins, but a little bit of a swale, a curtain drain, and discharge it here. Inside of this rectangle we are putting in crushed stone surface; a slope here, two to one; the site is benched into the hillside. Hart

said I would be happy to answer any questions? Lees asked about any routine maintenance, toxic by-products, spill over, leakage that could be toxic to the area. Farnum described natural gas: lighter than air; and a heater has a glycol solution and we take normal precautions with that. And there is odorant, in an above ground container with a full tank. Hart explained to Lees the containment system they have for the liquid, and the glycol antifreeze in our heating system. Lees asked again about a spill clean-up. Most of it is within the building, and there is a containment system for the odorant, Hart explained. There is no containment system for the glycol. Lees said I'm just looking really for insurance. (Tape #1 flipped to B). Farnum said we are regulated by the utility control. Mills asked please show me the 100-foot setback, which Hart did: the green line is the 100' setback. Does the gas cap have to be serviced periodically? Farnum said I believe it must be serviced every 8 years. We've been looking for a piece of property for three years. They were very limited as to where they could put that tap. Mills and Farnum discussed the periodic assessment of the facilities, including digging. Mills asked it can't be located someplace else? Farnum responded. Westney asked right now that tap is actually in that wetland? Gallo asked that line is already there, correct? Hart replied the tap can be slid up the hill a little bit. Westney said yes, especially if it must be maintained periodically. Lees said can we do a site walk on this, and see where the tap would actually be? Hart said the wetlands are flagged, and he described how the EIC Commissioners can access the site. Le said he can show where that tap will be. Baroody said, through the Chair, how much of the main line must you uncover? Le said when the tapping is done, we open a 15 ft. x 10 ft. space. Baroody asked will you flag that? Westney said I must excuse myself for a family emergency, and he left. Hart said we have a housekeeping matter: I have a letter from the attorney for WCI Communities, from Robinson & Cole, their attorney. Gallo said we will want to do an on-site. Mills asked Hart to stake the corners of the buildings. Gallo explained we usually ask that on projects like this. Attorney Kenneth J. Pocius of Carmody & Torrance, LLP, came forward and said this project is under the jurisdiction of the DPUC (CT State Dept. of Utility Control); we decided to use your permit process to show you this project. We are not under the same requirements and time periods that you might otherwise put on us. We are under negotiations to buy the land, Pocius continued. So we're in the consulting process, and there are actually no time periods. June 11th is another EIC meeting day, and we are trying to cooperate; but if you'll see what the letter says, or if I can answer any of your questions. We are not to give up any jurisdiction to any local boards. I don't mean this to be a confrontation. Have you ever done a project with a pre-emption, a CT statute, Pocius asked? This is sort of the mini-bible for the DPUC: it advises and consults with the town boards when the site has been selected, and the time period is 30 days at best. Baroody said, through the chair, I think we need to submit this to our City attorneys. We have not had any utilities come before us, but we have a similar issue with AT&T, so I suggest we pass this on to our legal department. Pocius said that's fine; so we said due to time restraints; let's get an EIC application in. Gallo said as a courtesy, we'd like to see the plans. The question is what should you be doing with us, Pocius said. In the meantime, we will talk to City Council too, Pocius said. Gallo said yes, this is a surprise to us. We can continue with questions, Pocius said. Thank you. Lees said I'm all set. Mills said just as long as they know my main concern is the gas cap; it's into the wetlands quite a bit, and it has to be serviced; they might have to dig it up again. If you could do that, Mills said, it would not be a problem in my eyes. We as a Commission try to resolve these issues as quick as we can; we try not to drag things out. Farnum said to clarify one point: this tap may need to be inspected every eight years, but there's no need to dig necessarily. Pocius said the issue may be how close is the tap to the Wetlands. Gallo said we like to do on-site visits. Hart asked should we coordinate site walk? Baroody told him we like to do it without a quorum, so coordinate it with me or Pat Lee. Lees said we just received our packets tonight, so we have not seen your letter. Baroody said I will submit the

letter to our attorneys tomorrow. Lees made a motion to **table**. Massoud seconded the motion. The motion carried unanimously at 9:15 pm. Thank you, Gentlemen, Gallo said.

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: None.

ADMINISTRATIVE STAFF ACTIONS:

22 Morgan Avenue

Regulated Activity # 793

City of Danbury

Assessor's Lot # K11041, RA-20 Zone.

Date of Receipt: 4/9/08. B. Doto, III, PE. Sewer main extension/storm drainage improvements. Administrative Approval by D. Baroody 5/16/08. Gallo read this into the record, by Dan Baroody. Anything to say on it? There were no comments.

ACCEPTANCE OF MINUTES: 5/14/08 Meeting. Motion to accept the minutes as presented by Lees. Second by Mills. The motion carried unanimously at 9:16 pm.

CORRESPONDENCE:

Aquatic Pesticide Permit Application from Connecticut Pond Services to treat Lake Wackawana for duckweed, watermilfoil, loosestrife, 17 Alan Avenue.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS:

40A Payne Road, David Tinker, MRF, LLC (EIC **767**). Meeting scheduled 5/30/08. Gallo said there's a meeting scheduled 5/30/08 which Dan will explain. We will meet, Baroody said, to discuss the zoning and meeting violations, Rosati, Tinker and myself. I'll submit a meeting report to you, Dan said to Mills.

Mills said we have a Notice of Violation (7/11/07) on the self storage site (77-83 Mill Plain Road, EIC **537R**, D14032, Shurgard). Baroody said I have nothing for you on that. If the Commission wishes, we can issue a Cease & Desist. They put up some silt fence, we asked them to do that. The State DOT may be in there storing concrete pipe. The DEP was interested in it too. Secretary Lee said other departments had issued stop-work orders. Mills said I was just curious; I did not know that the other departments had issued orders.

ADJOURNMENT: Motion to adjourn by Mills. Second by Massoud. The motion carried unanimously at 9:19 pm.

Next regular EIC meeting is scheduled for **June 11, 2008**.