



***Land Use-Urban Redevelopment Committee –
Board of Representatives***

Harry Day, Chair

Patrick J. White, Vice Chair

Committee Report

Date: Wednesday, March 24, 2010

Time: 7:30 p.m.

Place: Democratic Caucus Room, 4th Floor, Government Center

The Land Use-Urban Redevelopment Committee met as indicated above. Present were: Chair Day and Vice Chair White and Committee Member Reps. Kaufman, Lombardo, Raduazzo and Summerville. Excused was Rep. Boccuzzi. Also present were Representatives Cannady and Figueroa; David Emerson, EPB; and Jim Minor, Esq., Law Department.

Chair Day called the meeting to order at 7:35 p.m.

Item No.	Description	Committee Action
1. LU28.003	RESOLUTION; approving revisions to the Inland Wetland and Watercourse Regulations 02/25/10 – Submitted by Jim Minor, Esq. and the EPB	COMMITTEE APPROVED 6-0-0

Chair Day opened by stating that this item has been “sitting on someone’s desk” for the last 3 years. These regulations were approved by the other land use boards prior to 2007. Most of the regulations track the State regulations, as dictated by State law.

Mr. Emerson reported that the EPB started this review process in 2004. As part of the process of revising the regulations, the Board held 7 working sessions, including public hearings that included local attorneys and engineers as well as members of the Board of Representatives, including then Representative Pavia, former President Martin and Representatives Day, Mirkin and Zelinsky.

The EPB started with a long list of discretionary items. After the work sessions and public hearings, they were reduced down to a few items that are represented in blue on the attached draft regulations (the text in red tracks State regulations).

Mr. Emerson reiterated that Stamford is required to follow State regulations at all times. Generally, local regulations are updated every 10 years. While these regulations do not incorporate changes adopted by the State since 2006, they

will take the regulations from being 20 years out of date to being 4 years out of date.

Attorney Minor said the State statutes call for wetlands to be locally regulated. Failure of the municipality to regulate wetlands (such as through Stamford's EPB) results in the State doing so. The State now charges the municipality for this service if the municipality fails to do it.

Mr. Minor pointed out that the local regulating agency (in our case the EPB) must follow the State regulations, so the EPB does not have a lot of discretion.

Attorney Minor went on to discuss a 2006 Supreme Court decision involving Avalon Bay and a CT municipality. The case raises a serious question as to whether the Board of Representatives has authority to review and/or change the wording of any wetlands regulations or amendments thereto which have been adopted by the EPB.

As a result of this court case, Attorney Minor feels that it is questionable whether the Board of Representatives has any power to overturn the EPB's amendments to its regulations, even though Stamford's ordinance calls for approval by the Board of Representatives. Nevertheless, given the ordinance, the EPB and its staff wanted to demonstrate respect for the BOR and opted to submit the amendments for approval.

Mr. Emerson stated that he wanted the regulations to be updated so that when developers and citizens go to the website, they are not presented with regulations that are twenty years old, and inconsistent with State regulations that would apply in any case.

The Committee discussed the appropriateness of having a public hearing. Attorney Minor stated that there was no obligation for the BOR to hold a public hearing. Clerk Summerville felt that it would be confusing to the public and that many people would assume that the BOR had some control over the regulations. Mr. Emerson stated that it would also be a very expensive endeavor to publish the entire set of regulations in the newspaper. Chair Day stated that given the questionable jurisdiction of the Board, he viewed it as unwise to hold a public hearing. The Committee agreed that, for the reasons listed above, a public hearing would not be held.

Chair Day stated that he had a concern regarding the definition of "best management practices," which he felt seemed too absolutist, leaving almost no discretion to the EPB. Mr. Minor felt that it was possible that any changes to the regulations would require starting back at Step 1 (although he was not certain if it would be necessary for small, minor changes in language). Mr. Emerson felt that the language was not really absolutist, and in any event, members of the EPB

would not have any incentive to write the regulations so tightly as to eliminate any judgment calls by its members.

Upon motion duly made and seconded, the Committee unanimously approved the resolution.

As Secondary Committee

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| 1. A28.028 | <u>Environmental Protection Board</u>
Thomas R. Mills (I) Repl. Louis Levine
22 Blackwood Lane (<i>exp. 12/01/09</i>)
Stamford, CT 06903
Term expires: 12/01/11 | COMMITTEE
APPROVED
5-0-1 |
| 2. A28.029 | <u>Environmental Protection Board-Alternate</u>
Stephen D. Wayne (D) Repl. Diane Longo
154 Cold Spring Road, #19 (<i>exp. 12/01/06</i>)
Stamford, CT 06905
Term expires: 12/01/12 | COMMITTEE
APPROVED
5-0-1 |

A motion to approve Item Nos. 1 and 2 above was made and seconded.

Rep. White stated that he had a long-standing policy against approving attorneys for service on land use boards, and therefore he would be abstaining on these two appointments. The motion was approved by a vote of 5-0-1 (Rep. White abstaining).

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| 3. A28.037 | <u>Environmental Protection Board</u>
Gary Stone (R) Reappointment
199 Webbs Hill Road (<i>exp. 12/01/08</i>)
Stamford, CT 06903
Term expires: 12/01/11 | COMMITTEE
APPROVED
6-0-0 |
| 4. A28.030 | <u>Old Long Ridge Historic District-Alternate</u>
Robert Robins (R) Repl. John DeForest
64 Pond Road (<i>exp. 12/01/88</i>)
Stamford, CT 06902
Term expires: 12/01/13 | COMMITTEE
APPROVED
6-0-0 |
| 5. A28.034 | <u>Planning Board</u>
Michael A. Totilo (R) Repl. John Garnjost
23 Rockrimmon Lane (<i>exp. 12/01/03</i>)
Stamford, CT 06903
Term expires: 12/01/12 | COMMITTEE
APPROVED
6-0-0 |
| 6. A28.038 | <u>Planning Board</u>
Theresa Dell (R) Reappointment | COMMITTEE
APPROVED |

125 Hardesty Road
Stamford, CT 06903
Term expires: 12/01/11

(exp. 12/01/05)

6-0-0

7. A28.042

Zoning Board

Audrey Cosentini (R)
105 Wyndover Lane
Stamford, CT 06902
Term expires: 12/01/11

Reappointment
(exp. 12/01/02)

**COMMITTEE
APPROVED
6-0-0**

Rep. Summerville reported that the Appointments Committee approved Items 3-7 unanimously at this month's Committee meeting, with the exception of Ms. Cosentini, who was approved by a vote of 6-0-1. Ms. Summerville reported that Elaine Mitchell appeared at the Appointments Committee to discuss recently-reported comments in the Stamford Advocate attributed to Ms. Cosentini. This matter was discussed, and the issue is detailed in the Appointments Committee report. Ms. Summerville stated that in her position as Chair of the Appointments Committee, she elected to abstain on Ms. Cosentini's vote.

A motion to approve Item Nos. 3-7 was made, seconded and approved by a unanimous vote of 6-0-0.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Harry Day, Chair