



TOWN OF OXFORD

S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298

Oxford Conservation Commission / Inland Wetlands Agency

Special Meeting Minutes

March 11, 2019

6:00 pm, Oxford Town Hall, room B

The Special IW meeting was called to order by Chairman M. Herde at 6:00 pm

Pledge of Allegiance

Attendance roll call by Chairman Michael Herde

Present Commission members: Ethan Stewart, Sue Purcella Gibbons, Joe Lanier, Bill Richter

Staff: Denise Randall –Administrative Secretary and Enforcement Officer Andy Ferrillo and Town Counsel Peter Olson and Town Engineer Jim Galligan, First Selectman George Temple and Town Attorney Kevin Condon

Absent: None

1. Chairman M. Herde stated: This is a special meeting called to be held with Town Counsel for the purpose to discuss Superior Court order #416586 (Tkacz vs. Oxford Conservation Commission which is in ongoing issue with the filling of a flood plain.

Attorney Olson stated: I will summarize that in 2012 the activity occurred and filled in stuff next to the Little River which was then graded. The commission issued a cease & desist and then held a hearing on the cease & desist, upheld it and it was appealed to court and this took some time with the court process. Part of that was the tapes were missing some information on the minutes. The court made 2 rulings that the Commission did not open the hearing in time of the statute and then wanted the Commission to hold another hearing and then afterwards upheld the substance of the matter and the Commission did what the court asked them to too. We then re-created the record and re-submitted to the court. Ms. Tkacz submitted an application and the court upheld the denial of the application. Then the Commission held another hearing within the correct time frame and the applicant brought in a huge stack of paperwork and proceeded to explain exactly

what he thought had happen. My recommendation to the Commission was to have another application submitted and to validate what had been done and move on. He has not submitted that application yet and that is where we are at. So I have now heard we wanted this meeting and now maybe it has changed where we want to go. This is my information do date.

Chairman M. Herde stated: The Commission members and myself have been thinking leaning towards restoration but at the same time just cautious about expending funds to the town, expending more than what we feel comfortable with but at the same time everybody here is concerned about the amount of replacement that has occurred there in the flood plain.

Attorney Olson stated: Just to be clear, Attorney Micci handled the first part of the appeal so you paid money to him and paid money to me, probably in the \$5000 to \$7000 range for the second part of the hearing and to come to your meetings. To proceed your going to let them decide to submit an application and approve it and be done or you decide whether your going to enforce the regulations which require an injunction action, not necessarily a temporary injunction because there is nothing to immediately stop right now but your going to have to sue her and bring her to court.

Chairman M. Herde asked if it would be in the form of a restoration order.

Attorney Olson stated: We have issued a cease & restore order so the injunction would be comply with the cease & restore order that is, restore it. Part of restoration is to bring us a plan that can be approved and will be implemented and that results in restoration. It does get a little tricky because its 2 different things that your asking for.

Chairman M. Herde stated: We have professionals in the room as well as the First Selectman present to give is advice on how the Commission should proceed here.

Kevin Condon (Town Counsel) stated: I was approached by the states attorney who asked how involved Mr. Crozier was in this case as he is no longer an attorney.

Attorney Olson replied: He did not come to court when I was there.

Attorney Condon stated: Ok so their attorney was probably Scott Maser.

Attorney Olson replied: Yes. Mr. Crozier did present to this commission but there is no prohibition for non-attorneys to present to a commission. You can have an agent that is not an attorney. We have been careful with that letting Mr. Crozier know that question were to be responded by the owner of the property who is Ms. Tkacz.

The Attorneys discussed which court house this case would go into.

Enf. Officer A. Ferrillo discussed a prior possible resolution that never happened.

The Chairman agreed that the commission was more interested in restoration and the big concern here is the large displacement of water and making the river narrower and downstream making it someone else's problem next time the big rains come.

Attorney Olson asked Jim Galligan (town engineer) if he was confident this was a rather significant problem that needed to be fixed.

Mr. Galligan replied: Absolutely

Attorney Olson stated: I think the question the commission has struggled with is, is this blood from a stone and how much money is the town willing to spend with an uncertain result.

First Selectman Temple asked how much money was spent so far.

Enf. Officer A. Ferrillo replied: about \$20,000

First Selectman Temple stated: \$20,000 and we haven't gotten a dam thing. Let me tell you where I'm coming from. Pursue it.

Chairman M. Herde stated: Fix the problem.

First Selectman Temple stated: Yes, fix the problem. I told you when I got elected here I will back you up and that doesn't mean that you're going the other way now. If you take a stand, I will back you up but I'm not backing up a bunch of jelly fish, I expect this dam thing to be taken care of immediately. This guy is laughing at us and he is using excuse after excuse not to do what he is supposed to do. Make him correct it and place the property caveats on and do what you need to. I don't understand why we don't file a motion for contempt.

Attorney Olson stated: Well there isn't any order in place to be in contempt of.

First Selectman Temple replied: Well there should have been an order. We have to get an order and if that's what it takes, then we enforce that order because with contempt, comes a lot of other things such as attorney fees and everything else. You don't engender very much confidence to me. I mean what is the purpose of enforcement action? Enforce it. You're not doing it.

Chairman M. Herde stated: Ok. We were concerned about spending too much.

First Selectman Temple asked: If you were concerned, why was I not notified? I would have told you exactly what I just told you. I don't back down when it comes to enforcement.

Chairman M. Herde stated: I thought you were aware of this already.

First Selectman Temple stated: Well I'm not. I'm not sure whose fault that is but I'm a lot more concerned with spending \$20,000 grand for nothing. I will spend the rest, whatever it takes but we got a point to prove and if we don't prove our point, all of our regulations are worthless.

Commissioner B. Richter stated: Well we proved it. The court agrees with us.

First Selectman Temple stated: The court agrees, I don't give a dam what the court does. It doesn't matter what the court says because if he is doing whatever he wants to do, in violation of the law, that's our fault.

Commissioner B. Richter asked: Where do you go then? What should we do?

First Selectman Temple stated: Whatever you have to do and maybe we need a court order. Just sitting there and patting each other on the back saying we won, we didn't win anything.

Chairman M. Herde stated: This was on our agenda the entire time. This was not put by the wayside.

First Selectman Temple stated: This started in 2012 and its now 2019, I don't care where it is on the agenda, it doesn't seem to be a priority.

Chairman M. Herde stated: We had trouble with the first attorney who sucked down a huge amount.

First Selectman Temple stated: Yes, and I get that as it is partially my fault and I apologize for that.

Chairman M. Herde stated: And we appreciate you fixing that, actually.

First Selectman Temple stated: However, we are not there now, let's get going.

Chairman M. Herde agreed.

First Selectman Temple stated: I will go to the wall for you and we are out to prove a point. We are out to enforce our regulations and if we can't enforce our regulations against someone who just shrugs their shoulders, then what happens when someone else come in?

Commissioner S. Purcella Gibbons stated: He definitely knew better as I think he was on the Chairman on wetlands committee in Southbury.

First Selectman Temple stated: You are right and that's why I don't want to see him get away with it.

Chairman M. Herde replied: And we appreciate that and we will find out where we stand in the realm of things.

First Selectman Temple stated: I don't mean to give you guys a hard time. I'm on your side and we will back you up, whatever it takes. We are going to return this to what it was because if we don't, every wetland in Oxford is in danger.

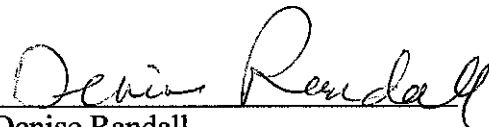
Attorney Olson stated: So I need the Commission to make a motion to direct me to take the initiation to take action against Ms. Vicki Tkacz for the 2012 violation at the 10 Park Road property.

MOTION made by **Commissioner B. Richter** have the Inland Wetlands Commission direct land use Attorney Peter Olson to take legal action against Ms. Vick Tkacz for the 2012 violation at 10 Park Road, Oxford. Seconded by **Commissioner S. Purcella Gibbons**. All in favor 5-0.

Adjournment:

Motion to adjourn at 6:55 p.m. made by **Commissioner Susan P. Gibbons**, seconded by **Commissioner E. Stewart**, voted 4-0.

Respectfully submitted,


Denise Randall
Administrative Secretary

19 APR -8 AM 10:29
TOWN OF OXFORD, CT
Theresa A. Clark
TOWN CLERK