

Wallingford Inland Wetlands & Watercourses Commission

**Regular Meeting
Wednesday, February 7, 2024, 7:00 p.m.
Robert F. Parsi Council Chambers
Second Floor, Town Hall
45 South Main Street, Wallingford, CT**

Chair James Vitali called this Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission to order on Wednesday, February 7, 2024, at 7:00 p.m. in the Robert F. Parisi Council Chambers, Second Floor of Town Hall, 45 South Main Street, Wallingford, CT.

PRESENT: Chair Vitali, Vice Chair Deborah Phillips, Secretary Nick Kern, Commissioner Michael Caruso, and Commissioner Jeffrey Necio, and Alternate Commissioners James Heilman and Aili McKeen.

ABSENT: Commissioner Mrs. Caroline Raynis.

There were seven persons in the audience. Later on, five other persons entered the Chambers.

A. PLEDGE OF ALLEGIANCE

The Pledge was recited.

B. ROLL CALL - As above.

C. CONSIDERATION OF MINUTES

1. Regular Meeting, Dec. 6, 2023

Chair Vitali requested to delete on p. 5, paragraphs 2 and 3, and to replace those sentences with this discussion that Ms. O'Hare obtained from the Meeting video, as shown in her memorandum to the Commissioners dated today, February 7, 2024:

"Chair Vitali asked, Erin, are you in agreement that this is going to clear up the Cease & Correct Order?

Ms. O'Hare said, That's the intent. It's only going to 'clear it up' when it's built.

Chair Vitali asked Erin again, Do you agree that the plan satisfies the Cease and Correct Order from 2018?

Ms. O'Hare said, Yes."

MS. PHILLIPS: **MOTION THAT THE MINUTES OF THE MEETING ON WEDNESDAY, _____
DECEMBER 6, 2023, BE ACCEPTED AS SUBMITTED WITH THE CORREC-
TION ON THE MEMO FROM ERIN.**

MR. NECIO: **SECOND.**

VOTE: **MR. KERN - YES; CHAIR VITALI - YES; MS. PHILLIPS - YES; MR. NECIO -YES.**

ABSTAINED: **MR. CARUSO.**

2. Regular Meeting, Jan. 3, 2024

MS. PHILLIPS: **MOTION THAT THE MINUTES OF THE REGULAR MEETING ON WEDNESDAY,**

JANUARY 3, 2024, BE ACCEPTED AS SUBMITTED.

MR. NECIO: SECOND.
VOTE: MR. KERN - YES; MS. PHILLIPS - YES; MR. CARUSO - YES; CHAIR VITALI - YES.
ABSTAINED: MR. NECIO.

D. OLD BUSINESS

- 1. #A-18-12.2 / 32 Barnes Road - Rowland Industries - Request for release of bond**

Ms. O'Hare reported a bigger swale will be installed.

- 2. #A18-1.2 / 801 North Colony Road & 6 Beaumont Road / Padens Brook - IAmTheWalrus, LLC - River Corridor Restoration - Request for release of bond**

Ms. O'Hare reported the bond holder's request to table.

MS. PHILLIPS: MOTION TO TABLE THE #18-1.2 / 801 NORTH COLONY ROAD & 6 BEAUMONT ROAD.
MR. NECIO: SECOND.
VOTE: MR. KERN - YES; MS. PHILLIPS - YES; MR. CARUSO - YES; MR. NECIO - YES - CHAIR VITALI - YES.

E. NEW BUSINESS - None.

F. RECEIPT OF NEW APPLICATIONS

- 1. #A24-1.1 / 1136 Durham Road - Sunwood Development Corp. - (re-subdivision - 13 lots - under 8-30g.) Request for administrative approval**

Chair Vitali said, This started out as a Request for Administrative Approval. It surpasses our regulation on 20,000 square feet of impervious surface. I understand there's a Petition submitted that flags this to be a Public Hearing, so there is no Administrative Approval. There's to be a Public Hearing next month. I'll give the Applicant a few minutes to speak. This is primarily for Wetlands.

Mr. Robert Wiedenmann of Sunwood Development Corp., showed a drawing. He said, The property is located on Durham Road at the intersection of Grieb Road. It's a 3.5-acre parcel. Years ago, it was a Christmas tree farm. It's generally flat, with a slight slope toward the back on Durham Road. There are no wetlands in the vicinity of the property, or within 500 feet. Mainly, the flow is toward 91. We'll address that next time. Water goes to a detention basin to the Town system down Durham Road and down to the State I-91 property. From there it runs about 600 feet going north to a grass swale and disperses across the highway and to an intermittent brook on other side of 91. I believe we have no wetlands. We have no impact on wetlands. If you can't do it administratively, there's a benefit to go through this process. This is a project being designed under the 8-30(g) statute as Affordable Housing. It allows us to increase the density of units. It's difficult to meet all require-ments, so my view is to drive everything to what would drive the cost down.

Mr. Wiedenmann said, I'd go into the Stormwater Management Plan next month.

Commissioner Heilman said, I'd like to say that there are no wetlands down there at all or nearby, but

the density of this increases the impervious surface more than normal in this area, and our Commission is obligated to look at where that water is going. Downstream, what is that intensity?

Commissioner Kern said, Are you aware of our regulation for a public hearing and what's required by you to be done?

Mr. Wiedenmann said, I think I do. But I have a question.

Commissioner Kern said, Save it for Erin, and let her give you a copy of what the new regulation for your request is, because they have changed as to wildlife, stormwater discharge, and that.

Mr. Wiedenmann said, My question: If it was not going to be done administratively, whether the Board was going to decide on the Significance of the activity? Is that still necessary as part of the process because of the public request? I assume, because it's a public hearing, we'll still have to comply with those same rules that we've had as if it were a Significant Activity.

Commissioner Kern said, Part of the public hearing is going to be Significant Activity, either way, so that still has to be addressed. Once you provide us with all the information in the public hearing, that should answer a lot of our questions.

Mr. Wiedenmann asked, So I was going to request discussion about Significance. Next month, we'll come prepared as if it's a public hearing under the Significant Activity rules.

Chair Vitali said, O.K. Anybody else?

There was no response.

Chair Vitali said, See you next month.

Ms. O'Hare said, Mr. Chairman, Mr. Wiedenmann doesn't have to do all eight reports required for a Significant Impact Activity, unless this Commission declares it. There's two ways we get public hearings: one is the Significant Impact Activity declaration--then you get a public hearing. The other way is if the Chairman and the Commissioners decide if it is in the interest of the public. And the third way is if somebody organizes and gets a petition of 25 or more residents signing, which was handed in today. It triggers a public hearing in the Regulations. That doesn't trip eight reports. The petition itself just requires a public hearing. Mr. Wiedenmann could present his full presentation on March 6, and after hearing the presentation, if you decide, "This is Significant Impact Activity," then he's got to do the eight reports.

Chair Vitali said, Well, you can't determine Significant Activity tonight, anyway.

Commissioner Kern said, He's trying to expedite this Application. So provide him what's required for a public hearing--through petition or whatever. If one petitioner says, "I want to know a wildlife study out there, how many turtles are in the area?", then he's got to go another month. So give him a list of things required with the public hearing. The best way would be to answer all the questions in the next month, so when he comes in front of us next month we can make a decision on it. We can Significant Activity it, and we can maybe even vote on it because we've had it for 30 days.

Ms. O'Hare said, I can meet with Mr. Wiedemann. We can go over what all should be in there, Yes.

Chair Vitali said, Got it?

Mr. Wiedemann said, All set. Thank you very much.

This Application #A24-1.1 / 1136 Durham Road - Sunwood Development Corp. - (re-subdivision - 13 lots - under 8-30g) was received and a public hearing was set for the March 6, 2024, agenda.

2. #A24-1.2 / 507 Main Street, Yalesville - Dennis Bozzuto - (industrial development waste reduction facility) Request for administrative approval - (WITHDRAWN)

Chair Vitali announced that this Application #A24-1.2 has been Withdrawn.

3. #A24-1.3 / 213 Evansville Avenue - City of Meriden - Meriden Markham Airport - (4 hangars) - Request for administrative approval - *Granted 1/3/24*

Chair Vitali announced that this Application #A24-1.3 was granted Administrative Approval in January.

4. #A24-1.4 / 195 Long Hill Road - Wallingford Country Club - (renovation of two creeks)

Chair Vitali announced this application as received.

Chair Vitali said, This is Wallingford Country Club. It's just received tonight. It's a unique request. Erin, can you give a description of what it is?

Ms. O'Hare said, The Board representative for the Country Club came to me and said, "We don't really need a Wetland Permit. It's maintenance." I went out, and this is very extensive maintenance. It's a new thing in golf courses around New England now. They beautify the streams by taking sod and wrapping it around the banks, six or eight feet on each side, and then down the bank and then down the bottom and coming up the other side.

Chair Vitali formally received this Application #A24-1.4 for the March 6 agenda.

5. #A24-2.1 / 155 East Street - Ferti Management Corp. - (driveway extension/loading area, filling storm basin, installation of new storm basin, and discharge of stormwater)

Chair Vitali received this Application #A24-2.1 for the March 6 agenda.

6. #A24-2.2 / 100 Barnes Road - Jacunski Humes Architects, LLC - (Modification to permit IWWC #A22-5.5 re: stormwater management and change in total surface area)

Chair Vitali received this Application for the March 6 agenda.

Chair Vitali said, This is the Police Station new headquarters. Erin went over it with me. The Application consists of the retention pond--the temporary retention pond or sediment control pond they put in--which some people disagree with because the sediment seals off the forest/ground there. But they dug down and they couldn't control the water in this retention pond.

This Motion was made:

MS. PHILLIPS: MOTION THAT WE DIRECT ERIN TO HAVE A THIRD-PARTY REVIEW

**CHAIR VITALI added wording for Ms. Phillips:
OF THE APPLICANT'S THIRD-PARTY REVIEW OF THIS AREA**

Then **CHAIR VITALI** added:
**AND THAT WE DIRECT ERIN WOULD REVIEW POLICE APPLICATION
FOR A THIRD-PARTY REVIEW OF THIS PROJECT AND POSSIBLY ALSO
REVIEW THE RETENTION POND THAT THE STATE SAID WAS NOT TO BE
OPENED UP AGAIN.**

In discussion:

Chair Vitali continued, So I'm concerned about the Police Station and the Perretta application--and the Police Station maybe affecting Perretta, and the whole thing affecting the cinema.

Ms. O'Hare said, This has been a problem before the Police Station. Where, exactly, is the address where the State said you can't do this--open up the detention basin? I haven't heard this.

Chair Vitali said, You have got to locate the retention pond up there in that area.

Ms. O'Hare said, Up in Barnes Park North?

Chair Vitali said, It's not up high. I'm guessing it's between Corometrics coming down to where it goes behind the old Calcagni house, and crosses and picks up the brook there.

Commissioner McKeen said, So on the uphill side across from the self-storage area? There's a large wooded lot, and that's between Barnes Road and Brookside Drive?

Chair Vitali said, It has to be. It's got to be on that watercourse that comes down to the self-storage. I don't know if it was up higher or not.

Commissioner McKeen searched it and said, This area is all wooded with some thin spots; and there's definitely an open area that is not wooded that looks like it could have been a pond at one time. That is not far from North Main Street Extension. It's closer to North Main Street Extension than any of the other buildings, except for the Calcagni mansion.

Commissioner Kern said, We're trying to get the water to slow down on the east side of the road, even retain it--let it dissipate at a slower rate, so it doesn't flood people across the street. Because right now, that retention pond that was there is no longer there. And I don't believe the State had any authority to tell you to leave it as wetlands--unless Lowe's was going to put a dam in, but dams are no longer accepted in the State of Connecticut. They're trying to do away with dams. But all we're trying to do is put a swale retention in there; it would hold the water back and let it dissipate naturally. Further up the street, there's 6-inch pipe running through the Geremia property that's got almost 90% capacity, that runs 24/7, 365 days a year because there's so much water up there. We're not looking to shut the water off; we're just looking to put back what we approved of. And then, with the Police Station, that has to be redesigned to accept the water that's coming out of the ground now.

Chair Vitali said, There's been trouble at the cinema before, and we don't want to add to it. It's possible that the problem that the cinema had this year--I'm not sure if it was caused by the Perretta project or the police station. I know after the last storm there was dirty water traveling through the drainage connection, the ditch behind the cinema, but I don't think it was coming off Perretta property.

Ms. O'Hare said, By the time I get consultants talking about this; you could approve them; they go out and do the work--we're talking a few months?

Chair Vitali said, If you want, go to the Town Attorney and say, "This is what's going on." We're trying to represent the Town.

Commissioner Kern advised Ms. O'Hare to go into the old files and find out where that retention is and whether there's a maintenance program on that; then take a picture of it and see that it's not being maintained. Before, Lowe's wanted to put a dam in there. But we want to just make a swale to catch the stormwater. Second, is to look at the Police Station that has water coming out of the ground. It can only go west, downhill, into behind the theater. It needs to be retained.

Ms. O'Hare said, Right. The Police Station has a plan, but it isn't presented yet.

Chair Vitali said, O.K. The Motion made--was there a Second?

MR. NECIO: SECOND.

Chair Vitali noted regarding this Application #A24-2.2 received above that the Commission may have more information in 30 days. He advised Ms. O'Hare to speak with Corporation Counsel Janis Small. Call for a vote.

VOTE: MR. KERN - YES; MS. PHILLIPS - YES; MR. CARUSO - YES; MR. NECIO - YES; CHAIR VITALI - YES.

G. UPCOMING BUDGET FY 24-25

This Item G. was not taken up.

H. REPORTS & COMMUNICATIONS

1. **Discussion of proposal to adopt fines for violations** - Not discussed.
2. **Farm Hill Road Detention Basin** - Not discussed.

3. IWWC #A23-10.1 & IWWC #A22-12.3 / 1 North Main Street Extension - In Memorium Cemetery Association, Inc. - installation & design failure

Ms. O'Hare said, I have been working with the contractor and the engineer. The contractor will pull it out and do it right. I did meet with the Owners last week.

4. Memorandum to Janis Small, Corporation Counsel, from Erin O'Hare, Environmental Planner, Re: Cease & Correct Order, Cease & Desist Order, & Notice of Violation, dated 1/19/24

The Commissioners received a copy of Ms. O'Hare's memorandum.

5. Memorandum to All Boards and Commissions & Members of Town Council, from Janis

M. Small, Corporation Counsel, re: Freedom of Information Act and Ethics Training, to be held Feb. 29, 2024, 6:30 p.m., Town Council Chambers, dated 1/25/24

The Commissioners received this memorandum.

- 6. Notification re: Pesticide application, Tec Associates Consulting Engineers - Vegetative Management Plan for 2024 Vegetation Control Program, National Railroad Passenger Corporation (Amtrak), dated 1/22/24; submitted 1/29/24**

This work was noted.

- 7. Notification re: Pesticide application, Tec Associates Consulting Engineers - Vegetative Management Plan for 2024 Vegetation Control Program, Providence & Worcester Railroad (P&W), dated 1/24/24; submitted 1/29/24**

This work was noted.

I. VIOLATIONS

See combination Motion for items near end of Meeting.

- 1. Notice of Violation Remains - 1245 Old Colony Road & Quinnipiac River - Jerzy Pytel - (unpermitted clearing & filling near river); NOV issued 6/4/19; NOV to be recorded on Land Records per 10/4/23 action**

Ms. O'Hare reported that Mr. Pytel's representative has replied to her and the Town Planner.

- 2. Cease & Correct Order Remains - 67 Schoolhouse Road - Michelle Millican & Michael Gerace - (new filling over prior filling); issued 4/25/23; 11/1/23 extended deadline for removal to 9/4/24**

This Order is to remain.

- 3. Cease & Correct Order Remains - 67 Schoolhouse Road - Karl Kieslich - (new filling over prior filling); issued 4/25/23; tabled**

This Order is to remain.

- 4. Notice of Violation Remains - 24 Mapleview Road - Patricia Clarke c/o James W. & Patricia Clarke, Trustee of The Clarke 2022 Living Trust - (alteration & filling within wetlands and in Upland Review Area on 24 Mapleview Rd. & on 13 Rolling Meadow Dr.) - issued 4/21/23**

- 5. Notice of Violation Remains - 119 Quigley Road - Matt Turner - (clearing & grading in wetlands); issued 9/29/23**

Ms. O'Hare advised to wait until spring to see the growth.

- 6. Cease & Correct Order Remains - 55 Kondracki Lane - Fifty-five, LLC - (correction plan to comply with 6/5/18 Order approved 12/6/23)**

Ms. O'Hare said this Order remains in place.

- 7. NOTICE OF VIOLATION - 4 Mellor Road - Robert and Rhonda Doolittle - (unpermitted clearing, installation of rock wall in channel, footbridge, drainage pipes, fire pit, seating area, stone path, and fencing); issued 11/29/23; on 12/6/23 tabled to 1/3/24**

Appearing were Owner Mr. Robert Doolittle and Mr. Tom Daly from SLR Engineers.

Mr. Daly said, We're looking to get a resolution here.

Mr. Doolittle said, For the last two meetings, I was traveling. Now I'm here to do what we have to do.

Ms. O'Hare said, The Environmental Planner's Report went out to you Friday. The NOV was issued on November 29th. I met with Mr. Daly and Mr. Doolittle on January 24th about the stream and footbridge. Mr. Daly was going to look at old aerial photos to see if vegetation was moving back nearer the house and driveway. I think the footbridge went in about 2012. I asked Mr. Daly to ascertain the structural integrity of various blocks and boulders in the stream, and the footbridge footings. This place floods. Mr. Doolittle said Mr. DiNatale must have hardened off that stream when he did that subdivision. I looked at an old subdivision map, and the stream alignment of the stream didn't change, he said.

Chair Vitali said, Is this a candidate for a site investigation? At the oxbow area where the bridge goes over, I'd want to see if/how I'd put fill over there. On this side of the brook, is there fill to be removed? Is it functioning without impact? Pictures show the blocks that hold the footbridge are kind of blocking the flow. Do they come out or get reset? I think early pictures show that bend.

Commissioner Kern said, The farmer (next door) gets hay in the summer. Certain times of the year, it's really wet.

Chair Vitali said, The blocks were there before you bought the property?

Mr. Doolittle said, Yes.

Chair Vitali asked, Do the blocks by the footbridge come out?

Mr. Daly said, It is Mr. Doolittle's desire to keep the footbridge, but we'll look at it with the Commission.

The Commissioners chose to do a site walk. Chair Vitali set a Special Meeting for a Site Walk at the property, 4 Mellor Road, at 4:45 p.m. on Tuesday, February 13th.

Chair Vitali tabled this Item 7. to the Meeting on March 6, 2024.

See combining Motion made at end of meeting for all nine I. Violations items here.

The next two agenda items were heard together.

8. CEASE & DESIST ORDER - IWWC #A23-2.2 & IWWC #A23-9.1 / 86 Barnes Road - 950 North Main Street Wallingford, LLC - storage unit facility - (numerous violations & permit non-compliance)

9. NOTICE OF VIOLATION - 950 North Main Street Extension (aka 929 North Main Street Extension) - 950 North Main Street Wallingford, LLC - storage unit facility - (erosion & stormwater management system failure)

Appearing for both #8 and #9 were Mr. Zachary Georgina of Juliano Associates, 405 Main Street, Wallingford, and property Owner Mr. Vincent Perretta.

Commissioner Kern asked Mr. Perretta to give an update.

Mr. Perretta said, I did meet with Mr. Laflamme and an attorney representing one of the Owners next door. We talked about the cleaning of inside his facility itself; we agreed on certain things. As to the current driveway on the Odd Lot site, I did call on a Friday and go and do some cleaning on Saturday. I cleaned the catch basin that was clogged there before a snow that was coming. As to the catch

basins running parallel behind the self-storage facility, we really didn't discuss that; but there was mention of that being cleaned. I didn't address it yet. But we'll be sending someone over there--talking to Bob first--to take a look at those basins and see if they have to be vacuumed out, etc.

Commissioner Kern said, We may have a storm coming. Did you fix the breach on your existing self-storage? That was running water over the bank down into the lot you stripped--or is that still exposed to where your water from your existing can get back down into the disturbed lot? We had pictures last month--it looked like an erosion breach, where the water got so high it ran over the bank and into your new--

Mr. Perretta said, So it overflowed. There was no breach.

Mr. Kern said, I call it breach because when water gets so high it's got nowhere to go, what's it to do? It breaches to the next level.

Mr. Perretta said, Since then-- Zach would have it in his reports--there were more rainstorms and there was no more breach. I believe the breach was part of the conversation held before of the other side of North Main Street Extension and the overflow coming from above.

Mr. Kern said, I know you've been listening tonight of what's going on across the street from you--and we're trying to straighten that out. I think it's got an effect on your property.

Mr. Perretta said, It doesn't on the 86 Barnes Road. It does on the current self-storage facility.

Chair Vitali said, Right. But did you fill that erosion on the bank from the pictures we saw?

Mr. Perretta said, No, I didn't fill that erosion on that bank.

Mr. Kern said, We have hard rain coming Monday night and Tuesday.

Mr. Georgina said, If I may, Mr. Kern. Part of my reports is identifying sources of why this happened in December specifically--and why later in January with that significant storm on the 14th, it didn't happen again. And that would be because the culvert that allows this channel to travel underneath the crossing between the Go-Kart facility and Big Lots was obstructed with a log. I removed that log in January and that's why we did not have a similar rain event see that same flooding and overtopping.

Commissioner Kern asked, Was it a Mother Nature log, or a log somebody threw in there?

Mr. Georgina said, It was a cut log. I have a photo. Whether someone threw it in there, I can't comment. It was a cut log on both ends--in my reports--with fungus growing on the cuts; it's old. It was not of 86 Barnes Road's origin.

Chair Vitali said, You've seen reports from Wallingford Shopping LLC, a letter, and then also a report from Civil One, I think.

Mr. Georgina said, Civil One. I don't believe I've seen the other report. It does not sound familiar.

Ms. O'Hare said, It's a letter; it came with the other one--just a cover letter.

Chair Vitali said, Well, not Civil One?

Ms. O'Hare said, No. That letter Civil One was attached to the Wallingford--

Chair Vitali asked, But you didn't want to share this with Mr. Perretta?

Ms. O'Hare said, I did send them it.

Mr. Georgina said, The only documents I received were for 86 Barnes Road: the Cease and Desist letter, Civil One letter--

Chair Vitali said, Well, you said you have the C-One letter?

Mr. Georgina said, I said the other letter. You mentioned two. I have the Civil One. I do not have the other one.

Chair Vitali said, You don't have the Wallingford Shopping LLC? It says "Received at Wetlands the 29th of January".

Mr. Georgina said, I have two documents that I received: one is from Civil One, and one is the original Cease & Desist Order.

Ms. O'Hare said, I sent them to Vinnie--maybe I didn't send them to you, Zach. Zach's reports came in yesterday afternoon and today. But the Applicant and the Applicant's engineers need to sit down with me. They used to come in the middle of the month, hash it out. No one does it anymore.

Chair Vitali said, We don't have to act on this if you're not completed. The issues here on this, the C-One--I don't know if they addressed this. This sounds like some pretty good ideas submitted here. Also on the Wallingford Shopping letter, they have some ideas. So, unless you sit with them and come up with some answer, I don't know what we're supposed to do.

Ms. O'Hare said, I believe Vinnie sat with Civil One and Wallingford Shopping Center, didn't you?

Mr. Perretta said, I sat down and received that letter, yes, from Mr. Laflamme.

Ms. O'Hare said, So then you gave it to Zachary and said, "We got to do this", right?

Mr. Perretta said, That was--yes.

Ms. O'Hare said, And then Zachary, I don't know if he did everything on the Civil One letter. But the stack of materials that came in yesterday and today--he's done some of these.

Chair Vitali said, I really don't know if we're prepared to move forward. Based on your report: "Vote to affirm the Cease and Desist, that it remains. Issue additional directives under the Order." What directives do you want? Aren't you waiting for more information from David Lord?

Ms. O'Hare said, Vinnie sent me an e-mail this afternoon from David Lord. I made copies; there they are. It doesn't address the things I wanted addressed that I cited in the original Cease and Desist Order--it addresses half. You can say the Cease and Desist remains. You can decide if you need a

bond. Zach can report on the deep test pits he did because Civil One and others wanted to affirm that the future infiltration unit is going to work. So he and Vinnie did new deep test pit information. It's right there today--they've done a lot of work. And Vinnie has gone out and done all the Erosion Control from the original plan. That's there. The wind blew it down; he put it back up. So, as far as the Erosion Control on this site, it's pretty good. I'd ask Zach about this trench they dug from his report. I'm not pleased with the David Lord thing. The plan that David Lord approved, and we approved, was meticulous--very good for the Wetland Restoration. He didn't address that there's no more shrubs.

Commissioner Kern said, As far as I was concerned, he was to give us a report tonight on how he made out with cleanup with the cinema owners and what's going ahead with that. If the gentleman in the audience wants to speak on the cinema's behalf?

Ms. O'Hare said, One important thing here: Zach went down and took pictures of the stream. He found places where it needs cleanup or a tree cut down, etc. He was asked to do that last time, and he did. So they've done bits and pieces to help towards solving the problem.

Mr. Kurt Jones said, Good evening, Mr. Chairman, Ladies and Gentlemen, Kurt Jones from Civil One, Professional Engineer, and Bob Laflamme from Holiday Cinemas. We submitted a letter January 15th with recommendations. We appreciate the cooperation that Mr. Perretta has extended by meeting with Bob and his attorney. I wasn't present. I'd discuss the seven recommendations in the letter, not to read it. I do request from Erin that we receive copies of all materials submitted. I was encouraged to hear the Chairman talk about a third party taking a broader picture of what's going on out there. Sometimes we lose the big picture. Not a huge, exhaustive study--but someone with experience to take a look at that, make recommendations to the Town, to provide you some information on what's going on out there. In summary, I request you please instruct the Applicant to implement our recommendations and to have some logical, methodical followup to make sure that those have been taken care of. Bob might have a couple words to say. Thank you.

Chair Vitali asked, Your name, please?

Mr. Robert Laflamme, Owner of Holiday Cinemas, said, Bobby Laflamme. I represent the cinemas and the Wallingford Shopping Center. We had a meeting, and I don't think we resolved any issues. We laid out what we thought had to be done: drains had to be cleared out; to address the mud that was there; and the cinema cleanup, which I think I proposed a number that they seem happy about. My understanding is they wanted to think about it and get back to us. Nothing's been cleaned on the drains--none of that work has been done. And I am very, very concerned because, in light of the information we heard tonight with the Police Department, I'm even more encouraged that we have a Peer Review to look at that with the mud, which, caegorically, the video--if you watch the live video we took from our cameras on the cinema, the mud did come. At least, the mud coming off the hill there from the storage shed site. So this storm--and I think Kurt from Civil One can testify--even though this seemed like a large storm, it was under a 10-year storm. So, if we get something significant, I think we'll all be in trouble, with the police situation, with the water. So we need someone to address all that before it moves on. I don't want to experience another mud-out at the cinema or the plaza--flooded or dumpsters floating down. What's it going to take to have all this checked and get it done right this time? Once everything's built and it doesn't work, it's too late. We're left to suffer the consequences. I appreciate if the Commission can get a Peer Review. Review all the numbers independently so that we all know everything is going to be done right.

Chair Vitali said, That's the direction we're heading. But, after hearing that there was debris in that

channel, I think it would behoove the cinemas or the LLC to have some maintenance program on that channel. You don't own the channel, and I don't know who owns the whole channel.

Mr. Laflamme said, I think, Mr. Chairman, both channels. The one directly behind us, Kurt and I walked through and made a video. He can bring you up to date on how the channel behind the cinema is.

Mr. Jones said, We did take a look at that channel and discussed it with Erin. We agree 100% that that channel needs to be maintained. There's a lot of brush, trees, just plugging up the channel. As a result, it's not able to convey the design flows it was sized to convey. So, if it's supposed to convey X cubic feet per second, it's X minus Y; and that's definitely a contributing factor. In our recommendations we found a number of contributing factors which make a big difference.

Chair Vitali asked, But who's going to maintain it?

Mr. Jones said, I think it's on Mr. Perretta's property.

Mr. Laflamme said, It's all on Mr. Perretta's property, the one we were talking about previously this evening. The channel that overflowed over the bank with the mud is the one Kurt and I walked the whole length behind the cinema. That's the one that, in my understanding, would be maintained by the storage units. And the riprap--the large rocks are down in the channel. We have a video of it that shows as it gets to a point, it tightens up. Unless that's corrected, too, that's giving the water.

Chair Vitali said, Right. That's what happens. The vegetation grows in and chokes the whole flow. But the indication was there was some log in the way--was that in this section, or was that in the flat area behind the parking lot where it heads down to Route 5?

Mr. Jones said, So we didn't want to go on his site. We didn't feel we had permission. From from our vantage, it did appear there was a breach in the pond--an eroded gully, two or three feet deep, where there was a big slug of water that came down with all the mud. And that was the major factor, I guess.

Chair Vitali said, Yes, Sir?

Mr. Georgina said, I have a map that may help everyone. (Placed on the easel.) If everyone can see the laser pointer: The obstruction of the log is right here in this area. And the breach they're discussing here is at the end of a swale that directs water into this catch basin located about here. Now the Perretta #929 property does own this portion. Essentially this portion of the swale right here, coming up and back, this channel, that's all Perretta. Once that turns and goes up towards the movie theater--I'm not sure who owns that, but that's no longer Mr. Perretta's purview to clean.

Chair Vitali said, I would agree.

Mr. Georgina said, I also have photos of the logs and other obstructions.

Mr. Jones went to Mr. Georgina's board and said, My concern was right along the channel behind the cinema. The mud was flowing, quite strong, here. It actually floated the dumpster away down the parking lot--they had to go find it. And this is the area right here, where I observed what I thought was a breach. Somehow, this overflowed and came through here. I would submit that any log down here had nothing to do with what's going on farther upstream.

Chair Vitali said, But someone should be maintaining between the buildings, the property.

Mr. Jones said, Yes, Sir.

Chair Vitali asked, Who owns that strip?

Mr. Jones said, I'd have to research that. I'd be glad to do that.

Chair Vitali asked, Could that be part of your property, Sir?

Mr. Laflamme pointed to the drawing and said, If you go where the storage sheds here, all this area and the main flooding area came in in here and hopped over. So how that would have any effect on what we're dealing with water? If you watch the live video, it makes no sense.

Chair Vitali said, That may not be, but somebody's got to maintain channel going down to--It would behoove you to find out, even if you share the cost with the bowling alley or whoever's next to you.

Mr. Laflamme said, If we're responsible, we categorically will clean it. We don't want to go through this again. That's why the peer review would make us feel a little--.

Chair Vitali said, You're getting us involved in a legal issue about cleaning that channel. Whose responsibility is it? The responsibility of who owns the property? Or it benefits you if you get involved in some of the maintenance, with the owner's permission?

Mr. Laflamme said, Mr. Chairman, if we are responsible for cleaning that channel, we will clean it. But, certainly, this channel over here behind the storage shed should be maintained properly. I walked it in the mud down there--there's riprap, big rocks that have fallen down, and it's restricted. It has to be fixed. And our storm drains are all clogged with mud, too--we haven't fixed those, and we're looking forward to another storm.

Chair Vitali said, Some things the Commission has authority to do, and some they don't. I would rather spend money to clean the channel than give it to an attorney to sue the property owner next door.

Mr. Laflamme said, We met with them and asked them to help us. They said they'd get back to us.

Chair Vitali said, I still maintain that's a whole another issue. Right now tonight, have you analyzed Civil One's report and how it affects this property?

Ms. O'Hare said, Civil One says the Erosion Control Plan that we approved in June is no good. Zach says, No, he's looked at it again, and it's fine. I'm not an engineer, but when one engineer says it's not good enough and the other one says, "No, I looked at it, and it's good enough."

Chair Vitali said, Then it's very simple: Nothing happens until the third-party review handles it.

Ms. O'Hare said, Civil One requested a third party on several things. So maybe we could get two people: one reviews 86 Barnes; the other guy reviews the whole watershed there in that territory.

Mr. Perretta said, Mr. Vitali, may I speak? The channel is on the current Self-Storage side, on the property next door from 86 Barnes Road.

Chair Vitali said, The property that you own?

Mr. Perretta said, Yes. The channel itself was moved--or regraded--20 years ago. When we worked with the old owner of 86 Barnes Road, we repaired that channel so the movie theaters wouldn't flood out anymore back then. We all know that used to flood out. We repaired it back then. We're here 20 years later. I do maintain my channel on the North Main Street Extension side. Erin was out there, even questioning as far as trees or removal of brush, etc. I maintain that I have the ability to cut the grass that's there that was approved 20 years ago. Now we have the trees inside the channel, overgrown and occupying space. The silt in those channels that comes around and overflowed does not come from Barnes Road. It doesn't come from North Main Street Extension. It comes from the other side. I think we're all on the same page with that. I think tonight we're talking about a Cease and Desist on 86 Barnes Road (item #8) that has an approved Site Plan that has been fouled now, as far as the erosion control, silt fence. I can't run a machine there because of the Cease and Desist, so I'm limited. I've done trenches--sediment trenches, berms, other excavation there to collect water. I understand the watershed of this area. There's only about 10% that flows towards the back corner of that property; everything else on that property flows towards Barnes Road. The only way that water can be contained is continuing site work on that property. It will be a continuous grade of a flat elevation; catch basins will be going in, detention basins, concrete galleys, and they'll be collecting the on-site water. When that is done, I believe the reports say there's 10% left of the watershed that goes towards that channel. There's no way that 10% is going to flood that channel. Flooding comes from somewhere else. I want to fix that channel on the existing site. I have the right to cut the grass to the edge of the riprap channel, but I can't cut trees that are inside the channel. You can't remove the silt.

Chair Vitali asked, You don't have a right to do that, or a permit to do that?

Mr. Perretta said, From what I understand, we can apply for a permit. But, as far as a maintenance program, you can't go in and take trees out of that channel, correct?

Mr. Georgina said, When we were going for the original 86 Barnes Road Application, I know Mr. Perretta performed a mowing operation. And we were thoroughly tongue-lashed by Erin about activities in the Upland Review Area and how we would require permitting to trim anything.

Chair Vitali said, Well, Upland Review Area is different than the watercourse. You trimmed back--you took some of the Upland Review that you weren't supposed to cut, correct?

Mr. Georgina said, We are talking about 929 [Item 9 on I. Violations] during the application process, and that was all within general maintenance of this area up to the channel edge. We were told we were not allowed to do that.

Chair Vitali said, But 86 Barnes Road, you took more trees out in the Upland Review Area than you were supposed to.

Mr. Georgina said, We're confusing two topics. We're discussing maintenance for the channel, and we have two different properties owned by the same person. If Perretta didn't own, and Mezzi still owned, 86 Barnes Road, this would be two different discussions because we'd have two different owners.

Chair Vitali said, You can say it's two different discussions. I'm saying you could cut those trees under the maintenance of that channel. And you're told you couldn't do that. But then you talked about URA.

Mr. Georgina said, The Upland Review Area on 929 North Main Street Extension. During the application process for 86, Mr. Perretta trimmed his side under regular maintenance. Erin O'Hare came out to inspect what was going on on 86, noticed that he had done his maintenance work on 929, and we were thoroughly rebuked for doing that, and how that activity that he should be able to do up to the channel edge on the existing storage units would require permitting.

Chair Vital asked, Is that true, Erin?

Ms. O'Hare said, Not exactly, but yes--I've been told to leave roots on the bank of the stream. It helps hold the integrity of that stream. So when you go right down to three inches of weeds and grass, it loses some of that integrity. That's how I've been trained.

Chair Vitali said, But it also closes the flow down--leaving all that vegetation there, reduces capacity.

Ms. O'Hare said, Yes, but where's the balance? Because when those flood flows come ripping through, it's going to rip the side of that bank that has no trees, no shrubs, no anything. I think somebody who knows about streams should look at this. Maybe we should riprap the whole thing?

Chair Vitali said, Riprap is a necessity on a lot of issues; but, you get riprap in the way, you can't get the channel clean. And, if there's more water, you don't want to choke the channel down.

Mrs. Perretta went up to the table about this time.

Ms. O'Hare said, I'm talking about riparian buffers. But there's a difference between a nice stream that runs behind someone's house and this stream, which is a nightmare. Maybe here, we're not supposed to keep the bushes and trees and everything. It is a flood-control issue, so we're not going to talk about riparian buffers. Yes, I asked Vinnie to stop cutting down the trees on the side of the stream, but maybe it doesn't apply. Maybe it should be considered a floodstream, serious flood-control stream.

Chair Vitali said, Well, this gets into a third-party review again.

Ms. O'Hare said, Also, the Town Engineer didn't even get those yet. Those came in yesterday and today. Zach e-mailed them yesterday.

Mr. Georgina said, Alison has been provided these documents.

Chair Vitali said, You had 30 days to deal with it.

Mr. Jones said, Mr. Chairman, briefly: I stand by my comments that the Erosion Control Plan is inadequate. If you look at it, study it--have a row of silt fence and one or two other small features. Typically, we see interceptor swales, temporary soil stockpiles, a maintenance plan--there's a lot missing. The other thing: An Erosion Control Plan does need revisions as the site plan changes, in accordance with conditions. So we made recommendation for a Revised Erosion Control Plan, so everybody is on the same page. The other thing I'd like to say is Bob has said that he will maintain the channel if it's on his property. I've known Bob a long time, and I can tell you that that will be the case.

Chair Vitali said, I don't mean I got out and walked the property. My observation after the last rainstorms we had--I believe he created a depression on the property to allow water to get to the sand, to

recharge into the sand, as compared with being sealed off with the fill that was brought in. Am I correct, Mr. Perretta?

Mr. Perretta said, At the depression down at the corner of the property, we excavated a trench--

Chair Vitali said, This, to me, looked a little bit closer up to your property, not down by the road. It looked like a depression, northwest corner of your property? I thought you got into the sand layer.

Mr. Perretta said, There are two depressions over there, yes.

Mr. Jones said, We did see the depression, and there were really no controls. At the low end, they were added within a few days after the storm event. So these plans do need to be modified as the project is developed. We don't have anything further to say, unless you have some questions.

Chair Vitali said, No, I think all of this goes back to Erin to straighten it all out. What needs to be done here to continue?

Ms. O'Hare said, I'd like to ask Kurt: I wrote notes on what you said about the erosion control plan to be submitted and reviewed. Who would complete it, and who would review it?

Mr. Jones said, I believe that's up to you guys to decide. You could have a third party, which we highly recommend; or you could have your Town staff review it. We can't be reviewing plans.

Ms. O'Hare said, Also, Vinnie did do a few erosion control improvements. So, Zach, the original Erosion Control Plan was modified. You have new things on the site now.

Mr. Georgina said, Yes, Sediment Erosion Control Plans are there to set the bare minimum. This is something typically done as a contractor and a Building Department matter--not submitting plans on a weekly basis showing where the silt fences are.

Mr. Laflamme said, Mr. Chairman, we're just looking not to be flooded out. And I think the only way it can be accomplished is an independent review because their expert is saying one thing, my expert's saying another. By bringing someone in to review everything and say "This is the right way; this is correct,"--and then, you did your due diligence and everyone should be satisfied.

Chair Vitali asked, Vinnie?

Mr. Perretta said, Mr. Chairman, we got a lot of things going on. Do I go up to the Police Station and submit a plan for them to repair their detention basin that's filled up with water? And their job stops?

Chair Vitali asked, What was the first part, the Police Station?

Mr. Perretta said, Yes, do I go up there? Is that what I need to do? Go up there and have my own engineer, with no conflict of interests, go up there and submit a report on their site? Do you understand the irony here? We're talking about 86 Barnes Road.

Chair Vitali said, I understand. I'm with these gentlemen that a third-party review could come in and say what your engineer has designed is perfect. And they still could get flooded out in another storm. But, until either she or the Town Engineer or somebody else acting as an independent person puts a

stamp on it, they're not going to be happy and you're not going to be happy.

Mr. Perretta said, The construction has to stop now, for another month, waiting on reports that are irrelevant--because we have done everything to the Erosion Control.

Chair Vitali said, But she, our advisor, can't hand us the thing and say "Everything is fine; and they're going to do this, and you're going to do that."

Mr. Perretta said, But the water doesn't come from Barnes Road.

Chair Vitali said, What's that?

Mr. Perretta said, The water does not come from the site of Barnes Road. It comes from the stream.

Chair Vitali said, But the first flooding did come from you, from 86?

Mr. Perretta said, I would say No. But I understand our reports are done late, and they have been done after every storm. That flooding was done because the water slowed down where it crosses under Route 5, came back, filled up to a level of overflow all the way back up. I understand it pitches downhill. But that amount of water that was flowing through that channel--and water coming from above shooting through, racing through at velocity--I don't know, I'm not an engineer. There's two different sides--I want to work with my neighbor.

Chair Vitali said, I remember the flooding there, long before you bought. Route 5 was shut down one time, flooding across there. It's our frustration that we can't seem to get it resolved to what's going on.

Mr. Perretta said, I'm asking again for the Cease and Desist to be lifted, to continue to work on 86 Barnes Road because that is an approved Site Plan. I've done everything: as far as Dave Lord's report; as far as the wetlands that's up adjacent to North Main Street Extension; the extra clearing. If this report is read, I didn't take anything extra out of that area that's flagged. He's more than happy with it. I apologize he can't be here; he has a meeting in Hamden.

Mr. Perretta continued, And I understand how Mr. Laflamme feels. I don't want to argue with my neighbor, and we are on our way to agreeing on certain things. I know I set a time frame for this or that, but I also had to do my own due diligence, and I'm not intending on backing out of anything. I did call on a Friday evening and bother him at home to go and clean that catch basin before a storm was coming. I do monitor myself.

Mr. Laflamme said, Vinnie, I went the next day to clean it myself, too.

Chair Vitali said, Nick had a comment.

Commissioner Kern said, Last month, we charged you with what you should do. What did you do? And from here on out, what's your plans for the next 30 days, knowing that you've got another storm coming on Tuesday? I don't understand why you've dragged your feet. The first thing I would do would be to open the catch basins so the water can transmit where it needs to go, either the Quinnipiac River or over to the cart station. Why do you look at the engineer? You're the guy with the hand with shovels out there; you're the guy that's in charge of the lot.

Mr. Perretta said, Right, but we did our inspections together, and we did come up with a plan.

Commissioner Kern said, Why hasn't the plan been submitted or flagged yet?

Mr. Perretta said, Because they may be filled with some silt, but they're not--the flow of water is not stopped.

Commissioner Kern said, You got the catch basins full of mud, and you say it's not stopping the water?

Mr. Perretta said, There's sumps at the bottom of each catch basin. It's impossible that I put two feet of silt inside that catch basin to make that pipe stop flowing--that's all I'm saying. But I'm willing to do my maintenance. I would like to be able to continue working on my site, because it does work.

Commissioner Kern asked, What did you do for the last 30 days?

Mr. Perretta said, I went over there. I cleaned the catch basin before a snow. I've been monitoring the rain. I have pictures--I brought my payloader over there and cleaned out debris from over the catch basins that it would not obstruct catch basins any more, of any rain.

Chair Vitali said, Then your engineer should have been in her office the day after the last meeting because that's what's holding this up right now.

Mr. Perretta said, Yes, Sir.

Mr. Laflamme said, I understand Vinnie wants to start right away. But we're all here because he started right away the first time, without doing what he was supposed to. The drains are filled. They haven't been cleaned. I went over myself right after he--. But you need professionals in there to clean the drains and get ready for the next storm. And to let work proceed again. Until we're sure that what his expert says is right or mine's right--I don't care which one's right. If his is right, then fine. But we have the added factor, the Police Department adding water in. Everything should be considered by the Peer Review. Let him say, "This is right. This is right. This is right." It's done in a lot of other towns, I'll tell you. I'm dealing with it in another town where everything we do is reviewed. At this point, let's fix what the damage is; get it all cleared up. Get an expert in to tell us that the numbers are correct or they're not correct; the silt fence is right or it isn't. That's to do to protect everyone.

Mr. Perretta asked, Can Zach speak at all? The reports, or anything?

Chair Vitali said, The main thrust of this right now, and you continuing working, is the Soil and Erosion Control. Is that correct, Erin? To allow Mr. Perretta to keep working, is it Soil and Erosion Control that needs addressing? Is there something else? I don't mean the cleaning of the catch basins, etc.

Ms. O'Hare said, Well, the Wetland plan we approved is messed up; that needs addressing--how that's going to be changed because of when Mr. Perretta went in there and altered the wetland.

Chair Vitali said, You got to get in to work with her on it.

Ms. O'Hare said, I have a thought about minor superficial maintenance of his stream corridor. I don't mean in there with a bulldozer or change the shape of it--but a tree here, a tree there.

Chair Vitali said, No. He wants to get on 86 Barnes Road and continue his Site Plan Approval work.

Ms. O'Hare said, I understand that. I was addressing this storm that's coming. and maybe he could just take a few trees, things, out of that stream before the storm comes.

Chair Vitali said, So you haven't really answered my question regarding 86 Barnes Road.

Ms. O'Hare said, Maybe Zach can explain these trenches that he asked Vinnie to do. He's done sort of sediment trenches--but he can explain the difference between sediment trench and temporary sediment trap. Vinnie said "berms". I guess that's a swamp there--I'm not sure where he'd put the berm. But that would hold. This stream, when it floods, goes sideways. It goes north-south.

Ms. O'Hare added, My question: We haven't addressed when this stream floods--and it doesn't a lot--but when it does, water goes to the south, spreads out, and comes into 86 Barnes Road, which is now opened up. It used to come into a field, but now it's not. That was not addressed in the permit.

Chair Vitali said, Well, what is the recommendation? To go, including Civil One's comments, with their comments, their new plan?

Ms. O'Hare said, I think it's important that they dug new test pits. The results are here, in the spot of the infiltrator unit. They were asked to do that, and they did that. I looked at it today, and it looked pretty good, like down to 82 inches or something, right, Zach?

Mr. Georgina said, I understand we have the two properties and that's partially the issue. There's overlap because of a shared Owner. I'm asking for five minutes to point some things out and maybe help the Commission understand what has been done on site in terms of Soil and Erosion Control measures that have been implemented and what the results have been.

Chair Vitali said, I'll accept a short presentation only because it's a Cease and Desist function here.

Mr. Georgina said, Thank you. (As shown on the easel.) So what we have here: these are storm-water flows based on the topography. The only portion of this site that is draining towards this channel is right here--maybe a third of it is actually being directed here. Of that, most of it's directed down here into this low wetland area here. That used to be where the channel went. Going back 20 years when this was the Mezzi property, the channel crossed here at Barnes Road, meandered and came around here, cut all the way through the cinema and then up to where it is now crossing Route 5. Obviously, the cinema came in, that channel was taken, and you can still see right here where--a little bit of depression there--these arrows, this is where the channel was rerouted in a very large arc to go. My understanding is, when there was the issue 20 years ago, the current owner of 86 Barnes Road, Mezzi, was unwilling to do anything proactive. Mr. Perretta had to step up--and the best he could do was following the property line, which is why you see these very abrupt changes in direction as we go along. Water doesn't like to change direction. It likes to keep going in a straight line. As such, right here where the channel used to be, we got this hard, almost 90-degree turn. At this point, there's evidence that we had overtopping during this storm back on December 18th. And that would come up into the existing channel here--that is, these wetlands we have down here. The old channel is where it lived. So Perretta at the time did not have his proper S&E controls in following the plan that was approved by Town staff--so you get his soil being directed down here, being forced with this water coming in here. And we end up seeing right here, with this little breach of Perretta and this added channel water popping out into the cinemas, movie theater, being directed at this catch basin and this

catch basin. Further down, we have two low spots in the bank, and this is where we had water from this overflowing here and here.

Mr. Georgina continued: But the root cause of this all really coming down to right here, where we had that obstructed culvert. And that obstructed culvert--(he changed to another plan sheet)--was in this condition when I found it on my January 4th investigation, approximately 50% full. This is an oval pipe. It was lodged in at the dead center, collected with twigs and leaves. This is at that crossing between the movie theater and the cinema. This was all built up on this old log right here that was directly across. At this point, I had cleared and pulled that debris out. I then pulled the log out. This caused the backup, because this channel has three large culverts that were sized in to cross North Main Street Extension. It comes down to one culvert approximately the size of one of those pipes. That pipe was obstructed, mostly. That's where you're going to be having your blockage. These pipes are typically sized for the 10-year storm. We're now looking, across the state, to go more towards a 25-year storm sizing. So, in that scenario, we still would have had a severely undersized pipe creating ponding. And that's why you saw that all the soil--(he changed to another photo view)--all the soil along the Big Lots being ripped off here. As water comes down seeking its level, when it hits an obstruction, that's going to be where it's going deepest, fastest. And that's why we have the highest flow concentrations and that soil that's ripped off the edge of the banks that we saw in Miss O'Hare's reports. As we go farther up, we have less and less topsoil being ripped off these locations. Now I'm not saying that Mr. Perretta is blameless. Obviously, the soil deposited in this region--100% his--not going to argue that fact. But the damages down here are not due to the failure at Perretta's property. The topography here actually kicks Perretta's property towards the movie theater before the channel as it's currently graded. So, in the situation where we had this overflow, we have the bare soil and we don't have the S&E controls. We ended up with muddy water blowing past--

Mr. Georgina changed to another panel and said, This is a blow-up from my site walk mark-up presently. Before, we only had the silt fence along here and around the wetland that had been essentially pulled up with wind damage from that storm. Now, we have silt fence extending the whole length down. The corner is reinforced with hay bales. We have from the high point here, silt fence continuing all the way up along Barnes Road to the construction entrance, again reinforced with hay bales. At the low point, we have this natural channel here from this area that's shedding water this way. On the upgradient side of the construction entrance, we have the silt fence. The primary topsoil stockpile has been encased in silt fence. And then three Erosion Control Trenches which, typically, you dig these to collect and redirect water. They should be level, so that when water enters them, your silts and fines are being slowed down by waterflows to drop silts and fines out of suspension into the channel. You then would have water directed out the far end.

Chair Vitali asked, What did you do about the water when it breached that first 90-degree bend?

Mr. Georgina said, That would require us to come for additional permitting for the wetlands itself. That is technically on Perretta's, not 86's. It's something that needs to be addressed. but that is larger than a failure of the S&E controls and what has been going on on 86 property.

Chair Vitali said, If the last storm had breached at that point, what have you done to prevent it from breaching again?

Mr. Georgina said, That cannot be addressed from an 86 standpoint. It has to be addressed from 929.

Commissioner Kern said, It was addressed at the last meeting. It was one of the issues that we talked

about and wanted to have fixed. Where on your photograph there is the log? Was the log removed?

Mr. Georgina said, The log has been removed. The log was up between Job Lots and the Go-Kart facility, at that crossing.

Commissioner Kern said, So it sounds to me like you're pretty sure that this storm we're going to get on Tuesday night is going to have no impact on the cinemas. Your professional opinion?

Mr. Georgina said, I would never say absolute, because I don't know what's going to come downstream from upstream or something--plug a pipe. But, if things operate correctly and it is below a 10-year storm, you would not see what we saw at the cinema. As a point in fact to this, during January we had another sizable storm, not quite as large. After removing the pipe, there was localized flooding between Mo's and the bowling alley, which had not previously occurred. As such, if the log wasn't the issue, we would have seen flooding at the movie theater again. But, removing the log, we did not see that flooding again.

Chair Vitali said, That crossing is where the two parking lots connect?

Mr. Georgina said, Correct.

Mr. Laflamme said, Not by us.

Chair Vitali said, What I don't understand: You have this problem. You identified the breach in the brook. Yes, it happened to be not on 86--but you haven't done anything with it. You didn't get a maintenance permit; you didn't get part of trying to resolve it? You didn't work close enough with Erin. Why you didn't repair that breach, I don't know. So which way is the silt fence? Is the silt fence keeping the brook in? Or is the silt fence keeping the runoff from 86 to the brook?

Mr. Georgina said, The silt fence is keeping 86 from the brook and the movie theater property.

Chair Vitali said, I can see that down in the tail. But when you get up to the top where the breach is, what are you going to do?

Mr. Georgina said, The same thing I suspect has been happening: I believe this has been feeding this wetland for years now. That was David Lord's assessment with this wetlands.

Chair Vitali said, But you're telling me that that is where the damage to the cinema came from?

Mr. Georgina said, No. I'm saying the primary siltation is from that obstructed pipe. I'm saying that the materials that exited 86 Barnes Road were assisted by this--yes, we've since fixed this. This was not in. Soil and Erosion Control from this, or soils from here, transmitted down along the silt fence, down-gradient, into this lower area here--whether it was just that storm itself--adding water into it. And that's what caused the muddy water to exit 86 Barnes Road.

Chair Vitali asked, The muddy water coming from where?

Mr. Georgina said, From 86 Barnes Road.

Mr. Jones from Civil One, said, Mr. Chairman, may I approach the table? Have you seen the videos of

how this water was actually flowing, because you can clearly see it coming over--not backing up from the culvert. And I would point, out on his timeline, he's talking about removing the log on January 4th; and we didn't have the rainstorm until around the 14th, O.K.?

Chair Vitali said, We might as well see that, also. Well, show three of us.

Mr. Jones went up to the dais and showed his phone video. He said, At the back of Bobby's parking lot, where it's parallel; and this is upstream, with berms along here. So see the water just flowing down from the channel, and then you can see the color of the water. And this is another one that shows the water coming down the hill. It's clearly coming from the completed self-storage area and not backing up through the channel--which is, the pipe is significantly lower than where we are here.

Mr. Jones went to the other Commissioners at the dais, and he spoke briefly with Mr. Georgina.

Chair Vitali said, I just think this is such a problem here. Get it straightened out with her.

Mr. Perretta said, If I could speak again, Mr. Chairman? You know, we have an outside engineer speaking more than my engineer that's trying to represent me. I understand there's an issue. But I think this is a little unheard of.

Commissioner Kern said, It's not that we don't trust your engineer. It's to the point of where we need somebody to represent us--help guide us to do the right thing. And I'm saying this personally: I'm disappointed in the last 30 days you didn't do more to rectify your neighbors to be happy so that you could continue, we could give you permission tonight. But now the discussion is, What do we do with you for the next 30 days? Do we give you back your shovel and go out and fix what's out there? Do we wait till Tuesday when the heavy rains come in, and it overflows the banks? What would you do?

Mr. Perretta said, I think at that last meeting we talked about the channel and removing some trees and stuff like that. I think you recommended we do it. But you questioned, Do I do it without a permit--with a permit--go and do the work? You said, "Vin, you've been doing this for 30 years, you know what you need to do." And then you looked over to Erin and said, "Does he need a permit or not?" I'm not too sure if that's what we're talking about for repair on the channel.

Ms. O'Hare said, Yes.

Mr. Perretta said, Do I apply for a maintenance permit tomorrow, and that's to resolve the problem?

Commissioner Kern said, You're the contractor--you should be able to diagnose what needs to be done out there. You should have gone back and said, "Erin, I'll meet you out there and show you these trees need to go."

Mr. Perretta said, It's easier said than done. But to try to get things done--it's very difficult to maintain your composure to do work correctly and be fought sometimes.

Chair Vitali said, I'd ask the movie theater: How many catch basins are you referring to that have silt?

Mr. Jones said, Probably about three or four back there, I don't know off the top of my head.

Chair Vitali said, What if the Commission likes this idea: If they get a vacuum truck in to vacuum out

those catch basins, we'll let them continue with the Cease and Desist still in effect? So they can get straightened out with Erin and to get this thing back in line. Jimmy?

Commissioner Heilman said, I don't think that's a bad idea. I would like to mention one thing on that illustration. Back when we got a set of photographs of the damages and everything that took place, one thing that really struck my mind was the source of the water that flooded across that whole area. And it hasn't even been mentioned at all, that that drain right there on the road--

Mr. Georgina used a pointer on his display sheet and said, A catch basin.

Commissioner Heilman said, Yes, in the photographs that was clogged. And there was absolute clear evidence that the water coming down this road was flushing over right there and filling it. Normally, you don't have waters from the road flushing into a site, especially one that's been cut wide open. I believe that a lot of the issues came from that drain in the road being clogged--and all that was being conveyed down that road, which is quite substantial, was now being conveyed onto your property. The evidence is in those pictures. About the future? I would say: If that drain is going to take water from the road as it should, the magnitude of issues on that site would be greatly diminished. There was a flush--go back and look at those pictures for that drain, and you will see the flush of material that went into that site. One of the first things that came to my mind: What is the source of water? It's not coming down from the sky on this site. It's coming from else-where in huge volumes--and right there, to me, was major evidence of what was filling this area. If that wasn't there, I don't think the damage would have been nearly as extensive as it is. I don't know: Is that drain in the road cleared?

Mr. Perretta said, That drain is clear. And across the street of the old Calcagni mansion there, that catch basin currently is filled with silt in the road. Twenty feet past that catch basin and 20 feet before it, extending four feet in front of that catch basin's filled with silt. And every time it rains, puddles up; and with a heavy rain, it fills up.

Chair Vitali asked, Is the Town putting new catch basins in North Main Street?

Mr. Perretta said, Yes, they are.

Chair Vitali asked, Are they going up that far?

Mr. Perretta said, I believe they are. I have not called the Town on it. But I just want to make another point. I would just show you a picture from January 10th's storm of the flood down at Bowlero in Route 5, which is at 2:10 a.m. in the morning. If I may? And this is the flood. (Mr. Perretta showed the phone view to the Commissioners.)

Chair Vitali said, All right. Are you in agreement to get a vac truck in to suck those catch basins out?

Mr. Perretta said, I have no problem doing that.

Chair Vitali said, O.K.

Commissioner Kern said, But it's only going to suck the sumps, right? You said that the water level's not restricted because--

Mr. Perretta said, Myself and Zach, we inspected them. The sumps are full, but still below the pipes.

Chair Vitali said, A guy in Meriden, Loman Sweeping, he's got vac trucks. Yes, Sir? Then we're going to wrap this up.

Mr. Jones said, Just two points. One is that I think your Applicant here is still waiting on clear direction that it's O.K. to clean out the channel. I think that might be helpful.

Chair Vitali said, That's the next step. If we get the sumps cleaned up--if he can continue working, I think by next month--if he and his engineer get with Erin and get all this detail straightened out. They can review the sediment control structure, which looked like it might be adequate. And they can get the breach halfway up the brook and the cleaning of the channel out. We can get this thing resolved.

Mr. Jones said, The other point I had, Sir, was that, if you are considering a third-party engineer, I'd ask you to consider SLR Group. Tom Daly was here earlier, and they do work for about 20 or 30 different municipalities. So they're quite familiar; they're a first-class outfit.

Chair Vitali said, Well, she can have a name for it, and see about it. Yes, Erin?

Ms. O'Hare said, Last time when we said, "Don't go so fast," they were eager to change that stream channel. And I said, "Slow down," because there's a whole science--the dynamics of flow. When we were approving BJ's, we had the NRCS flood guy in. And he said, "Leave those logjams in the river." I said, "You want them to leave the logjams?" He goes, "Sometimes you want it to go slow."

Chair Vitali said, I remember him, too. We had the opportunity to riprap the whole brook along Lowe's, and they said, "Oh no, don't do it."

Ms. O'Hare said, Certain trees--I'm saying critical trees--certain trees, yeah, get them out of there. But some trees make the water go faster.

Chair Vitali said, You deal with it in the next 30 days--because the brook is restricted. Tomorrow's going to have more water. If you think we're going to save one tree and cut the flow down, it's not going to benefit anybody. The roots holding the bank back--I wish that the brook would wash its way twice as big, send it down to Quinnipiac.

Ms. O'Hare said, But then it reaches the choke point. It reaches the choke point by the cinema and Route 5. It's 30-inch culvert. It chokes down. And then we get the back-flooding.

Chair Vitali said, If you come up with a better idea, we'll hear it next month--what to do to fix this.

Ms. O'Hare said, Question for clarification, Zach or Vinnie: Did you fix that breach, slope--whatever you want to call it--on, some people call it 929, 950 North Main Street Extension? Is that fixed now?

Mr. Georgina said, That's technically a different application, but yes, it has been fixed. That's a different agenda item, but it has been fixed.

Chair Vitali said, You got to spend some time over there--understand what took place. I'll entertain a Motion that basically says the Applicant will vacuum out the sumps behind Wallingford Shopping LLC--we're not going to do the whole parking lot, just behind the property. And when those are completed, he can continue working on 86 Barnes Road, but the Cease and Desist Order will still stay in effect.

It's one of the conditions of the corrective measures.

Commissioner Kern said, So I asked you before about the North Main Street Extension, the breach. You're telling me now that it is fixed--that washed, eroded bank has been repaired?

Mr. Perretta said, I believe you and I were talking about two different areas. Yes, it has been repaired. There was a pipe that was already in the ground from 20 years ago that had been covered over. We excavated down, moved some material, exposed the pipe, cleaned the pipe that goes into our detention basin 30 feet away. And the area of the slope that was eroded, we brought in material, seeded and matted it (an area of 40' by 40'). We have photos.

Commissioner Kern said, That's fine. O.K., so we're on the same page.

Ms. O'Hare said, I'm going to need for you to reframe your suggested Motion, Mr. Chairman.

Chair Vitali said, O.K. Go ahead, Deb.

Commissioner Phillips said, Mr. Chairman, I'd like to make a Motion that the Applicant, Mr. Perretta, will vacuum out the sumps behind the property; and, when this has been accomplished, he can continue to work on 86 Barnes Road.

Ms. O'Hare said, He can't continue to work on 86 unless the Cease and Desist has been lifted.

Chair Vitali said, Well, no, it can't be lifted because there still are issues there that aren't resolved.

The Motion above was not seconded or voted.

Commissioner Kern said, Find a 5-gallon pail and a couple of shovels. You can have those catch basins cleaned in a couple hours. You don't need to get a mudsucker.

Ms. O'Hare asked, There are several Violations on this property. Would you like to see a more stringent Erosion Control Plan phased, as was suggested by Kurt Jones? You could direct that.

Chair Vitali said, It's the problem with not having stuff in before the meeting. We can't do anything without her basic approval or guidance. Your name and address?

Mrs. Lisa Perretta, 76 High Hill Road, said, But you really do have the authority to go ahead and lift it so that my husband can continue, Mr. Perretta, to work on the property, to adhere to everything that has been said unto him. I've witnessed right before me, that you folks are taking advice, which is great, from third-party engineers that spoke more than our own engineer. We don't have an issue with that. But we do have an issue with a third party coming in that is not from Ms. O'Hare's recommendation. With all due respect to Mr. Laflamme, we're not privy to give any of our information out to a third party. That's a conflict of interest. We are permitted to do so to the Town and also to whomever Ms. O'Hare agrees upon to bring in for the research up on the top of the hill. And, you know, I call it the Hundred Acre Woods because it's been a problem for a long time. So we are not in agreement with another third party taking place; and actually, I'm not sure if that's even legal right now, that's going on right now. Next month, Sir, will be a continuation of things to find fault. And I'm not sure, you know, that it is really proper to uphold a man's work when he's trying to work and fix everything, though--because we are met at every resistance level, which is fine. But nobody here would like it if somebody else

came in and gave all their opinions, and you folks are all taking it verbatim. So we're not opposed to working with our engineer again, and who Ms. O'Hare says--but we will not give our information out. Mr. Laflamme is welcome to be a part of this at every single meeting. But we are not going to be passing over our information, O.K.? That is not legal.

Chair Vitali said, O.K. All right, the Motion never got made, never got passed.

Ms. Phillips said, I'll withdraw it.

Chair Vitali said, Withdraw the Motion, O.K. So I suggest you get your problems resolved with Ms. O'Hare, and we will deal with this Application, hopefully, next month with some kind of resolve.

Ms. Phillips asked, Do we have to reaffirm all these?

Chair Vitali said, Reaffirm all the Violations or Cease and Desists.

MS. PHILLIPS: **MOTION THAT THE NOTICES OF VIOLATION AND THE CEASE & CORRECT ORDERS REMAIN ON THE VIOLATIONS LISTED, #1-6.**

MR. CARUSO: **SECOND.**

VOTE: **MR. KERN - AYE; MS. PHILLIPS - AYE- MR. NECIO - AYE; MR. CARUSO - AYE; CHAIR VITALI - AYE.**

MS. PHILLIPS: **MOTION THAT THE CEASE & DESIST ORDER ON 86 BARNES ROAD FROM DECEMBER 28, 2023, FROM MS. O'HARE REMAINS IN EFFECT.**

MR. CARUSO: **SECOND.**

VOTE: **AYE BY UNANIMOUS VOICE VOTE OF MR. KERN, MS. PHILLIPS, MR. NECIO, MR. CARUSO, AND CHAIR VITALI.**

Then this combining Motion was made:

MS. PHILLIPS: **MOTION FOR ITEMS 1-9 UNDER VIOLATIONS, TO REAFFIRM THE NOTICES OF VIOLATIONS, THE CEASE AND CORRECT ORDERS, AND THE CEASE AND DESIST ORDER.**

MR. NECIO: **SECOND.**

VOTE: **AYE BY UNANIMOUS VOTE OF MR. KERN, MS. PHILLIPS, MR. NECIO, MR. CARUSO, AND CHAIR VITALI.**

J. ADJOURNMENT

MS. PHILLIPS: **MOTION TO ADJOURN THE MEETING.**

MR. NECIO: **SECOND.**

VOTE: **UNANIMOUS TO ADJOURN.**

K. NEXT SCHEDULED REGULAR MEETING: March 6, 2024

The Meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Kathleen L. Burns, Recording Secretary