

Wallingford Inland Wetlands and Watercourses Commission

Wednesday, May 1, 2019, 7:00 p.m.

Robert F. Parisi Council Chambers, Town Hall

45 South Main Street, Wallingford, CT

MINUTES

PRESENT: Chair James Vitali; Vice-Chair David Parent; Nick Kern, Secretary; Commissioners Deborah Phillips, Aili McKeen, Alternate; Erin O’Hare, Environmental Planner.

NOT PRESENT: Commissioner Michael Caruso; Alternates Daryll Porto & Robert Simon.

Chair Vitali called the Meeting to order at 7:02 p.m. and the Pledge of Allegiance was recited.

CONSIDERATION OF MINUTE

1. Regular Meeting, April 3, 2019, 7:00 p.m.

Ms. O’Hare noted that on Page 11 Item #5 **-#A19-3.7/East Center Street**, at bottom of their discussion add: “See More Below Under Violations”; Page 12, Item #5, Under Violations, Item #1, “Commission discussed this violation above under “Receipt of New Applications” should also be added.

MR. PARENT: MOTION TO APPROVE THE APRIL 3, 2019 MINUTES WITH THE MODIFICATIONS

SUGGESTED BY MS. O’HARE

MS. PHILLIPS: SECOND

VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES

OLD BUSINESS

1. **#A14-7.2/195 Chimney Hill Road** – Sunwood Development Corp. – Request for final bid release.

Ms. O’Hare said this is not ready for bond release.

2. **#A19-2.2/14 Brookview Avenue** – John Santamaria – (stream bank stabilization)

Appearing in front of the Commission was John Santamaria, property owner. Ms. O’Hare said she, visited the site with the property owner, the Contractor Pete Kennedy, and Roman Mrozinski of the Southwest Conservation District, who is an expert on stream bank stabilization , visited the site. She said

this item was tabled at the last meeting so as to allow time for Mr. Mrozinski to complete his report. Ms. O'Hare said Mr. Mrozinski sent in his report which along with her Environmental Planner's Report, was sent out in the Commissioner packets last Thursday. Ms. O'Hare said the packet also included a memorandum from the Water Division which brought to her attention that the sewer line runs across where the access route is planned off Jodi Drive. She noted the Sewer Division marked up a plan showing the location of the sewer line. Ms. O'Hare also mentioned in her Environmental Planner's Report that she incorporated this as a Condition of Approval. Mr. Santamaria said he was in agreement with all of Ms. O'Hare's recommendations and reviewed them verbally with his Contractor.

Chair Vitali entertained a motion regarding Significant Activity.

MR. PARENT: MOTION THAT APPLICATION #A19-2.2/14 BROOKVIEW AVENUE – JOHN SANTAMARIA (STREAM BANK STABILIZATION), BE DEEMED NOT A SIGNIFICANT IMPACT ACTIVITY

MS. PHILLIPS: SECOND

VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES

Chair Vitali entertained a motion on the application.

MR. PARENT: MOTION THAT APPLICATION #A19-2.2/.14 BROOKVIEW AVENUE – JOHN SANTAMARIA BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS OUTLINED IN THE ENVIRONMENTAL PLANNER'S REPORT DATED APRIL 29, 2019:

- 1. REQUESTED CONDITIONS OF APPROVAL INCLUDED IN THE WATER DIVISION COMMENTS DATED 4/25/19 MUST BE ADDRESSED PRIOR TO COMMENCING WORK AT THE SITE. A REVISED DRAWING DEPICTING REQUESTED SEWER MAIN ALIGNMENT ACROSS AREA MUST BE SUBMITTED TO THE WATER DIVISION AND TO THE ENVIRONMENTAL PLANNER PRIOR TO ANY ACTIVITY TAKING PLACE AND OWNER WILL NOTIFY HER THAT THE CONTRACTOR, AND ROMAN MROZINSKI, SOUTHWEST CONSERVATION DISTRICT, HAVE BEEN PROVIDED A COPY OF SAME;**
- 2. STREAM STABILIZATION WORK TO BE CONDUCTED IN PERIOD OF LOW-FLOW (JUNE THROUGH OCTOBER) IN A DRY PERIOD.**
- 3. SPECIFICATIONS IN SWCD REPORT/DRAWING, DATED 4/3/19 TO BE FOLLOWED, EXCEPT EROSION CONTROL BLANKETS ARE NOT OPTIONAL – MUST BE INSTALLED ON DISTURBED SLOPE AREA AND CAN BE SHIFTED AS NEEDED TO ACCOMMODATE INSTALLATION OF "GROUND COVER-TYPE" PLANTINGS.**
- 4. EROSION CONTROL MEASURES AS DESCRIBED IN SOUTHWEST CONSERVATION DISTRICT REPORT & DRAWING AS DATED 4/3/19, AS SUBMITTED 4/11/19, AND IN WATER DIVISION COMMENTS TO BE INSTALLED IN PLACE TO BE APPROVED BY ENVIRONMENTAL PLANNER PRIOR TO ANY FURTHER WORK ONSITE.**

5. FIELD CHANGES AS MAY BE FOUND TO BE NECESSARY WHEN STABILIZATION WORK IS UNDERWAY, MUST BE APPROVED BY ROMAN MROZINSKI, SOUTHWEST CONSERVATION DISTRICT, PRIOR TO IMPLEMENTATION.
6. CONTRACTOR MAY INSTALL OPTIONAL 4-INCH PERFORATED DRAIN PIPE TO PROVIDE ADDITIONAL DRAINAGE FOR GRAVEL UNDER THE SECOND (UPPER) ROW OF CONCRETE BLOCKS – NOT REQUIRED.

MS. PHILLIPS: SECOND

VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES

3. #A19-3.3/2 Taylor Lane – William and Kara Shields – (filling for in-ground pool)

Ms. O'Hare noted her Environmental Planner's Report which went out in the Commissioner's packets last Friday. She said her report was lengthy because of drawings and a GIS image. She said the Shields are on a corner lot with Maplevue Road and Taylor Lane. She also went over the 1998 sub-division plan which showed the rear of the Shields lot as wetlands. Ms. O'Hare said she also attached the Shields plan stapled to their original application dated March 8. She said this shows the pool turned perpendicular to the Shields house which required more filling going down into what used to be wetlands. Ms. O'Hare noted the Shields submitted a report from David Lord, Soil Scientist, which said the area isn't wetlands, it is Cheshire soil. Ms. O'Hare said she asked the Applicant if they could turn their pool the other way. She said the Shields told her said they originally wanted the pool turned the other way but needed a variance because there is not enough distance on the side yard.

Appearing in front of the Commission was Kara and William Shields. Ms. Shields said a variance wasn't needed because part of the patio is being removed to bring the pool in to create more room. Ms. O'Hare noted the second drawing which shows the pool running parallel to the house and the patio which requires less fill. Ms. O'Hare said she is comfortable with the owners going with approximately 16 ft. of fill. Ms. O'Hare said the Commission could retain a Soil Scientist to ensure these soils were not wetlands, but Cheshire soils. She said her position is that the soil is wet. Chair Vitali asked Ms. O'Hare is she was comfortable with the plans dated April 17, 2019. Ms. O'Hare said she is comfortable, but wanted the owner to clarify, because she believed a 3 ft. variance was needed on the left side of the drawing. Ms. Shields reiterated a variance wasn't needed because part of patio is being pulled up which makes it 50 ft. off the street. Ms. O'Hare said she believed the variance was needed on the other side, not on the Maplevue side.

Ms. Shields said the variance wasn't needed because it didn't go that far. Ms. O'Hare said if a variance is needed, the Applicant must go to the ZBA. Vice-Chair Parent said that looking at the sketch, he noted the pool was just up to the 50 ft. line but noted it will be moved back. He said the map for the Inland Wetland Commission purposes is fine. Chair Vitali asked if this was a variance to the property line. Ms. Shields said they weren't getting a variance because it is within 50 ft. Chair Vitali pointed out the 50 ft. wasn't the issue, it was the other side of the property line between the Shields and the neighbors. Mr.

Shield said the pool Contractor stated he could go the allowed amount up to the neighbor's boundary line. Chair Vitali said a variance isn't needed. Mr. and Ms. Shields stated they and the Contractor had no problem with Ms. O'Hare's Conditions of Approval. Ms. O'Hare asked the Shields to have their Contractor contact her a few days in advance so she could go to the site and check the erosion controls before digging occurs. Chair Vitali asked why a wetlands permit was needed if the Shields were outside the 50 ft. upland review area. Ms. O'Hare said the area was wet and under the Inland Wetlands & Watercourses Act she is treating this area as a swamp, wet meadow or fresh water marsh. She said wetland plants are everywhere and trees don't grow there.

Chair Vitali entertained a motion on Significant Activity.

MR. PARENT: MOTION THAT APPLICATION #A19-3.3/2 TAYLOR LANE - WILLIAM & KARA SHIELDS – (FILLING FOR IN-GROUND POOL) BE DEEMED NOT A SIGNIFICANT ACTIVITY

MS. PHILLIPS: SECOND

VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES

Chair Vitali entertained a motion on the application.

MR. PARENT: MOTION THAT APPLICATION #A19-3.3/2 TAYLOR LANE – WILLIAM & KARA SHIELDS – (FILLING FOR IN-GROUND POOL) BE APPROVED WITH THE UNDERSTANDING THAT THERE MAY NOT BE A WETLANDS IMPLICATION AND SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED IN THE ENVIRONMENTAL PLANNER'S REPORT DATED APRIL 26, 2019 AS FOLLOWS:

- 1. FILL LIMIT LINE, INCLUDING THE ACTIVITY AREA USED TO COMPACT THIS FILL – INCLUDING SILT FENCING INSTALLATION TO EXTEND OUT NO FURTHER THAN 16 FEET FROM THE LOCATION OF THE WIDEST EDGE OF THE PROPOSED CRESCENT PATIO AREA**
- 2. EROSION CONTROLS ARE INSTALLED AND APPROVED BY THE ENVIRONMENTAL PLANNER PRIOR TO ANY OTHER ACTIVITY CONDUCTED ON SITE. SCHEDULE A FEW DAYS IN ADVANCE. ADDITIONAL SILT FENCING OR OTHER EROSION CONTROL MEASURES MAY BE REQUIRED BY THE ENVIRONMENTAL PLANNER ONSITE DURING THE CONSTRUCTION ACTIVITY AS MAY BE NEEDED**

Discussion

Commissioner Kern asked how the area around the pool would be stabilized when fill is brought in. He asked what would hold the fill and keep it from washing down into the wetlands. Ms. Shields responded that she believed the Contractor would use hay bales or a silt fence. Mr. Shields said he thought the Contractor would grade the area sloping out towards the wetlands. Ms. O'Hare said the area has to be stabilized with grass seed. Commissioner Kern noted that because of the large amount of rain, he would like to see the area stabilized now than after-the-fact because he doesn't want runoff into the wetlands. He said there must be a better plan than just a sedimentation fence. He asked that the Contractor have a back-up plan. Ms. O'Hare said that seed and straw mulch would be a good idea and possibly an erosion control blanket. Commissioner Kern noted that every foot the Contractor goes out, he will be a foot closer to the wetlands. Commissioner Kern also stated he didn't hear anything about installing placards.

Vice-Chair Parent modified his motion to include another Condition of Approval.

3. WETLAND PLACARDS ARE TO BE PLACED ON THE PROPERTY

MS. PHILLIPS: SECOND TO AMENDED MOTION

VOTE: PHILLIPS – YES; PARENT – YES; KERN – YES; MCKEEN – YES; CHAIR VITALI – YES

4.#A19-3.7/988 East Center Street – Benchmark Land Development, LLC – (industrial development & wetland restoration)

Appearing in front of the Commission was Atty. Dennis Ceneviva, Ceneviva Law Firm, representing the Owner/Applicant, Benchmark Land Development, LLC; David Lord, Soil Scientist; Marcus Puttock, Engineer, Godfrey Hoffman; David Palumbo, Applicant.

Atty. Ceneviva explained the Applicant has been before this Commission for 11 months under "Violations" and are here under the recommendation of this Commission a few months ago to prepare and come back with a master plan. Atty. Ceneviva noted two plans: one in September and one in November, which were remediation plans. He said Mr. Lord also prepared a revised report based on the current proposal. Atty. Ceneviva said the Master Plan is designed to address the previously unauthorized wetlands filling, which is acknowledged, and to address the overall redevelopment of the site and creation of new wetlands. He said the proposal will bring benefits to this location and neighborhood and to the wetlands and watercourse system. Atty. Ceneviva pointed out that those Commissioners who have gone out to the site over the past few days, have seen there has been a lot of work done. He said at the last IWWC meeting, he submitted a letter requesting an extension of time to take out some of the gravel in the driveway area which was a concern to the Commission.

Atty. Ceneviva said he was told by Ms. O'Hare this request was not granted and the Commission wanted the gravel removed by May 1st. He noted the gravel has been removed, and there is a silt fence along the wetlands. Atty. Ceneviva said Mr. Puttock will provide photos.

Chair Vitali said he didn't know if this belonged under "Violations" or under this application. He told the Applicant they may have scratched some gravel off but there is two or three ft. of fill on top of the wetlands, so the fill on the wetlands was not removed. Chair Vitali said where the silt fence is located, the Applicant started from zero to two feet in elevation. He noted there is a dam on the other side of the wetlands and ponding or the trench that was dug to try to get the water out is also not shown on the plan. He said the pipe where it was situated originally, was also not opened up. He said the Applicant is a long way from doing what was instructed which was to remove what was put into the wetlands. Atty. Ceneviva noted Staff Comments prefer the plan which is before the Commission tonight, noting this plan is much better for the Town and better for N. Airline Road's drainage.

Chair Vitali pointed out this function of the wetlands, with this pipe being open in the middle, the flow of N. Airline Rd when the pipe under the railroad couldn't handle it, the wetlands handled it. He said now this is eliminated and there is a straight pipe going across, and a hole put into the manhole which was built to allow the water to feed back in, but it is not functioning as it did for 100 years, the Applicant has created 500 sq. ft. or better of additional parking in this area. He said the direction was to remove what damage was done to the wetlands in the system, and this wasn't done. Chair Vitali said this was a little band aid to make the Commission feel good. He said the brook is shown on the photos, but noted there is three ft. to four ft. filled in on this side.

Atty. Ceneviva told the Commission the Applicant believes the work that was completed is to benefit the site, makes it more compliant to the directions of the Commission, rather than ignoring the request. Chair Vitali argued this wasn't the direction of the Commission which the Applicant missed. He said if the Applicant thought this was better for the site, everything should have been removed and then presented the plan, and the Commission would have then determined whether it should be filled. Chair Vitali said the Applicant just determined to put a two-ft. dam across the wetland. Atty. Ceneviva said there is a wetlands that has one function, water retainage. He said under the new proposal, the wetlands will have several functions including water retainage and botanical life. He said it looks like a lawn, there is nothing there. Chair Vitali noted this was a meadow wetland and had all types of life and functioned well.

Atty. Ceneviva said there will no longer be ponding in locations where there was no pre-treatment of the water as it exits the site and there is also additional planting which will be identified in the remediation plan and the creation of over 900 sq. ft. of new wetlands area. He said there has been incredible effort on the part of the Applicant and his team. Chair Vitali said unfortunately, the Commission's request was not satisfied and it took 11 months to do this. Atty. Ceneviva went over the history noting June 27, 2018 was the Notice of Violation and the Applicant filed a Special Permit Application in April 2018 with the Planning & Zoning Commission, but when Ms. O'Hare went to the site, it was determined there had been some unauthorized work done on the property. Atty. Ceneviva said the Applicant described the work done in a letter to the Town dated April 6, 2018 which involved removing a mountain of construction debris from the site that was in the wetlands and the upland review area. He noted the EPR dated July 13, 2018, said that she was meeting with the Engineering

Dept. on July 18, 2018. Atty. Ceneviva said the letter from Ms. O'Hare dated Aug. 6, 2018 told the Applicant to appear at the Sept. 5, 2018 IWWC meeting. He said the Applicant prepared a wetlands application on Sept. 5, 2018 with a site regrading plan. He said Ms. O'Hare's EPR dated August 31, 2018 recommended the Applicant not submit an application. He said Mr. Lord was hired in the preparation of this application in September 2018. Atty. Ceneviva said the wetlands restoration and creation plan was delivered on the Sept. 5, 2018 meeting and was told to return on Oct. 3. He noted no information from the Dept. of Engineering had been provided as of that date. Atty. Ceneviva said the Applicant appeared on Nov. 3 and made a presentation, and the Commission continued the application to the Nov. 2018 IWWC meeting. He said on Nov. 2, 2018, a memo from the Town Engineer recommended changes to the original site grading plan and all of these recommendations have been incorporated into the plan which is now before the Commission. Atty. Ceneviva noted the EPR of Nov. 6, 2018, incorporated the Town Engineer's comments and spoke about the site visit and that there was a line which showed a distinction between the parcel and the railroad property. Atty. Ceneviva said Mr. Lord presented the remediation plan on Dec. 5, 2018 which was revised and designed to improve the wetlands function and to create new wetlands. He said the Commission took no action on the remediation plan and continued this matter to their January meeting which was cancelled.

Atty. Ceneviva noted the Applicant's team met with Mr. Puttock in January 2019 to prepare a master plan as was suggested by Commissioner Kern. He said the Applicant appeared at the Feb. 6, 2019 IWWC meeting and discussed the Master Plan and the Project Engineer met with Erik Krueger, Sr. Engineer, Water and Sewer Divisions and the application was tabled by the IWWC. He said on March 6, 2019, the Minutes suggested Chair Vitali wanted the driveway removed by May 1, 2019. He said after the March 12, 2019 meeting with Ms. O'Hare and Kacie Hand, the Town Planner to discuss the Master Plan, the Applicant filed a new application on March 28, 2019. Atty. Ceneviva said he is prepared to present the application tonight and request an extension of the May 1, 2019 date to remove the driveway which was not extended. Atty. Ceneviva noted an April 24, 2019 memo from the Water and Sewer Divisions on the new plan recommending Conditions of Approval. He said today (Wednesday, May 1, 2019), he spoke with the Town Engineer indicating that because his recommendations were incorporated into the new plan, he believed this was acceptable and communicated this to Ms. O'Hare. Atty. Ceneviva said each month, efforts are being made to address these concerns and noted the Commission gave good direction.

Chair Vitali said he wasn't sure what the Town Engineer and Water and Sewer Division's recommendations are specific to the problems at hand regarding the wetlands. He asked if there was a recent report from the Engineering Dept. stating it would be acceptable to pipe this water straight across. Ms. O'Hare said she hasn't seen a recent report, but received a verbal report today, (Wednesday, May 1, 2019), from the Town Engineer who stated he looked at the photo to see how the water was draining and had no issue with the new work done over the weekend. Ms. O'Hare noted work was done in the Town's drainage easement and the Town Engineer was accepting of this. She said the Town Engineer hasn't had time to look at the design with the new application. Chair Vitali noted the Town Engineer hasn't voiced an opinion on the wetlands. Atty. Ceneviva emphasized this was not true,

stating the Town Engineer contacted him today (Wednesday, May 1, 2019 and had met with Ms. O'Hare and looked at the plans and saw that all of the proposals he made in November were incorporated in the plans and informed Ms. O'Hare this was acceptable. Ms. O'Hare noted the Town Engineer was reviewed the pipe, but hadn't reviewed the rest of the application and said the water doesn't flow right and this has to be redone. Ms. O'Hare pointed out that in the proposed design, the water is supposed to flow gradually and the processed stone area is supposed to flow gradually towards E. Center Street and flow into the one catch basin on the Applicant's property. Chair Vitali said this is the future plan, and noted the violation is still being worked on. Ms. O'Hare emphasized the Town Engineer is not okay with the plan, but is okay with the portion of the plan which deals with the drainage easement area and what is proposed for the pipe owned by the Town.

Mr. Puttock went over the plan. He said he tried to break the plan into two separate portions: the gravel area which he noted a substantial portion drained towards and wetland and the pipe that goes across under the railroad prior to this violation and since this violation. He said in trying to create the Master Plan, it was attempted to maintain that direction of flow but couldn't get it to work where it didn't result in flooding conditions. Mr. Puttock said to alleviate this and to maintain a clean water system within the wetland, it was decided to pitch the gravel area towards E. Center Street. He said a manufactured oil grit water separator which will remove particles down to 8 microns and will go to an underground containment system and to an existing storm sewer on E. Center Street. Mr. Puttock addressed water which may be collecting sediment or oil from proposed activity, this is being contained and dealt with more than 200 ft. away from the wetlands.

Mr. Puttock said he believed this would be a better situation if water flowed away from the wetlands. He said there will be a berm on the edge of the gravel parking area that will prevent water from flowing up over it and into the wetlands. He said the proposal for the storm drainage and reconnection of the wetland and into the pipe, involves digging a small hole in the grass area and making a depression so the water can get into a pipe and taken away. Mr. Puttock said the water which comes off N. Airline Rd. doesn't go into the wetland and piped away. He said there is no requirement from this owner to clean this water and he believes the situation created will result in a much improved wetland and a larger 43 ft. buffer of new vegetation between the existing wetland and proposed activity. He noted the restoration is essentially the same as previously proposed, although it has been pulled away from the wetland to the back of the existing building, which will be removed and a new building reconstructed and serviced by city water and a new septic system. He said he believes this is a better situation than what existed.

Chair Vitali said he was convinced the wetlands are being starved. He said the water that went to the wetlands is now going to E. Center Street; the water coming off N. Airline Road is also not feeding the wetlands. Mr. Puttock said he didn't agree, noting that all of the water seen in the ponding comes over land and not from the pipe off N. Airline Rd. He asked why one would want the water coming off N. Airline Rd. into the wetlands. Chair Vitali said wetlands can process this water as is being done across the street. Atty. Ceneviva explained the N. Airline Rd. drainage easement handles the N. Airline Rd.

drainage and has been there for several years. Atty. Ceneviva noted the Chairman is stating that before that pipe was covered, which was on railroad property, that water would pond back onto the wetlands. Mr. Lord stated the drainage along N. Airline Rd. goes through the storm drainage system and flows down to the point where the pipe moves in an easterly direction towards the railroad. He noted in 2008 when he flagged the wetlands on this property, there was an open section of pipe from the drainage off N. Airline Rd. and a matter of a 6 ft. to 8 ft. gap before the water flowed into the railroad culvert. He said he didn't see at that time, water backing up in that area that fed the wetland to the north. He said there was a plunge pool for the N. Airline Rd. water discharge before it moved into the railroad drainage system under the track. He said he didn't see evidence of the water backing up to any substantial amount through the wetland system in 2008.

Commissioner Kern said he was at the site and it appeared the Town might have obtained an easement from the owner of the field to make it accessible to become a valuable field. He said he believed Mr. Lord was right. Mr. Lord said this may be a situation that the Town didn't want to extend the pipe onto railroad property. He said the wetland system from the north end of the property moving in a south southeasterly direction makes two 90 degree turns and are not natural changes in the flow of the wetland. He said the water went around the debris berm. Commissioner Kern asked about the elevation difference. Mr. Puttock said the elevation will go from 258 at the north end of the parking lot, down to 256. He said the parking gravel area is very flat. Commissioner Kern asked the elevation number on the green side. Mr. Puttock said he has a one-foot berm along the edge, and it drops off and goes to 254 which is a four ft. gradual depression to the inlet of the proposed pipe. Mr. Puttock said he realigned this was to get it more in line of the flow of the existing wetlands in a north, south direction.

Commissioner Kern said if this goes forward, he would like to see some sort of maintenance program on the water/oil separator. Commissioner Phillips wondered that since the Applicant hasn't complied with the request to remove all the fill, how can plans be discussed. Atty. Ceneviva noted the fill has been removed and there are photos showing this. He said the only area fill hasn't been removed is where the pipe was open before. Chair Vitali noted there is a two-foot elevation change in the area where the straw was spread. Mr. Puttock stated there used to be approximately an 8 ft. elevation change in that area from the mountain of debris. Chair Vitali said the Applicant was heading in the right direction, but still had a few more feet to go.

Mr. Puttock noted this area was filled before we got down to where there was natural soil. Chair Vitali asked why there was a two-foot berm to keep the water back and why it isn't gradual from the existing shed down to the previous grade. Mr. Puttock said some more fill could be removed if this was desired. He said if the Commissioner entertains the Applicant's proposal, this could be worked on quickly to restore this area and then the area will be lower than the adjacent actual wetland. Vice-Chair Parent asked the elevation numbers for this particular parcel of land before it was filled. Chair Vitali said he believed this question is answered on the topography map, noting he believed the elevation was down in the 256 ft. or 257 ft. and it looks like the plan calls for 254 ft. Mr. Lord said the site was filled when he looked at it in 2008, and already changed the wetland flow. He said the area shown on the drawing in

a shaded color, was the construction debris in 2008. He said the area between his wetland flags and the debris pile was elevated at that point in time. Mr. Lord said this is why the wetland change didn't extend along the debris pile because this area was also filled likely at the time this redirection of surface flow was done. Mr. Puttock said the current elevation of this particular piece of land is approximately 257 ft. He said with the proposed plan, some of this area is at the proposed grade and there is a small area that he proposes to grade down further. Mr. Puttock said this area was previously 6 ft. higher because of the debris mound. Chair Vitali said he didn't believe the debris pile played into this. Mr. Puttock explained this was prior to 2008 and wouldn't have known the elevation then. Chair Vitali asked how the elevation was known with the debris pile. He asked if the topography lines on the map were accurate. Mr. Puttock said the topo lines were accurate and the top of the debris pile was approximately 261 ft. or more. Chair Vitali noted the Applicant will come back with the new berm at 257 ft. and there is a three ft. slope in a relative short distance and will be up at the pipe connecting to the railroad at 258 ft. , so the Applicant is anywhere from 3 ft. to 4 ft. plus a difference between the two elevations.

Atty. Ceneviva said this is what is being proposed, noting the fill wasn't done, the gravel was done, pointing out the Commission told the Applicant to remediate the violation. Chair Vitali noted there was still fill at the site that was put in by the Applicant. Atty. Ceneviva said it was gravel that was done in violation. Chair Vitali stated what was done in the violation still exists with topsoil and hay on it, noting the photos show it. Atty. Ceneviva said the photos are the remediation. Chair Vitali said this doesn't match the existing. Atty. Ceneviva said his client was told to take out the gravel which was what was put down. Vice-Chair Parent pointed out the original charge was to take out the gravel. He asked if something else was put in where the gravel was. Atty. Ceneviva said soil was installed. Mr. Lord said what is being talked about is a layer of topsoil where the gravel was removed. Chair Vitali noted there is a foot or two of topsoil behind the silt fence. He said there is a pond in the green grass and that is why the swale had to be cut to get the water out of the pond.

Commissioner Kern wondered if this issue could be resolved by going back to the archives to find out what the floor elevation of the building that was there. Mr. Palumbo, noted there is a spur that comes alongside the two buildings which he took down. He said he had filled in the hole where the foundation was with stone. He noted the debris pile had been there long before he purchased the property in 2011. He said all he did was bring gravel in to turn around after he was done with all of the site work; the fill in the back had always been there and noted the property was high on some spots and low on some spots and there was no work other than what he brought in for gravel. He added he did connect the pipes. He said he wants to make this a better site and pointed out he has 26 letters from the community stating how much they like it. He said he wants to make a nice architectural building up front and is trying to do what the Commission wants.

Chair Vitali said he is concerned about activity taking place in the wetlands. Mr. Palumbo said Atty. Ceneviva has been working and his people have been working to do everything the Commission wants done. Mr. Palumbo said he made a mistake, which doesn't seem to matter to this Commission and is offended, noting he has spent a lot of money to satisfy the community and the Commission. He said he

is willing to continue to do this. Mr. Palumbo said he wants to satisfy the Commission tonight. Chair Vitali told Mr. Palumbo he waited until the “11th hour” to attack this issue and it isn’t quite what the Commission wanted. Mr. Palumbo said he didn’t realize there was a deadline because everyone wanted a Master Plan. He said he has already spent money to appease the Commission to give the remediation and if more has to be done, he is more than willing and able to do this. Mr. Palumbo said he wants to give the Commission 1,500 sq. ft. of better wetlands, because the original wetlands were not quality. Chair Vitali noted that it probably would have been easier had the Applicant not done what they did. He said the Commission has been working a year to try to get the Applicant to clean out this hole. He said the Applicant chose to put in the Master Plan; the Commission always concentrated on the wetlands. He noted the Master Plan isn’t the Commission’s purview and this Master Plan takes water away from the wetlands that used to go in there. Mr. Palumbo said he just received the Commission’s letter that said the deadline was May 1. He said he just received this letter April 25, 2019.

Ms. O’Hare said the first time was March 6 and the letter went out soon after. She said the Attorney wasn’t at the March meeting, but she contacted him to tell him there was a May 1st deadline. Ms. O’Hare said at the April 3, 2019 meeting, it was stated again by Chair Vitali. She said she contacted Atty. Ceneviva who was not at that meeting, the next day, to inform him there was only 3 ½ weeks until the deadline.

Mr. Lord distributed a document to the Commission regarding the updated site regrading and remediation plan based on the submitted Master Plan. He explained the changes dated April 29, 2019. He said the numbers have changed slightly because the amount of restoration and wetland creation increased. He said there was also an increase in the upland review area which will be restored to a somewhat previous condition. Mr. Lord noted the amount of wetland impacted remains at 522 sq. ft. and intermittent watercourse which was filled on the property. He said the same amount of wetland restoration at 175 sq. ft. is being proposed, which reduces the proposed wetland impact that is proposed to remain down to 347 sq. ft.

Mr. Lord told the Commission they are proposing to restore, 3,800 sq. ft. of upland review area to a higher functioning character than was previously in existence. He said there will be plantings, seedlings and the establishment of a vegetative barrier between the proposed work area and the upland review area to the wetland. He said the amount of wetland creation has also been increased. He also pointed out a smaller area and said the proposal is to create 1,260 sq. ft. of new wetlands directly connected to the existing wetland. Mr. Lord said this is a mitigation/compensation ration of 3.7 sq. ft. to 1 sq. ft. He said a small pool area will be created at the invert of the proposed pipe. He pointed out the new wetland area will be fed by both localized surface water runoff, conveyance through the wetland system, and the underlying ground water table conditions. He said the discharge of untreated water is not preferable to the discharge of treated water and this structure will cleanse the water as it comes off-site.

Mr. Lord went over the revegetation effort within the existing wetland, the restored wetland, the wetland creation area and the upland review area that is being proposed to be restored. He said there

will be three planting areas, the upland review area, the new wetland area, the wetland area. Mr. Lord said trees shrubs and low to no maintenance ground cover vegetation will be installed. He said there will be two special types of seed mixtures will be installed in addition to the permanent vegetation stabilization. He said this will be for the new wetland and a portion of the wetland adjacent to the restoration. He said a no mow mix will be put into the upland review area. Mr. Lord went over the maintenance monitoring program noting that upon the completion of all the vegetation work, there will be post-completion inspections done by him on a schedule of 15 days, 30 days, six months and annually for the next three years after completion of the plantings. He said the Commission will receive a written report along with photos for documentation. He said there is an 80% survival threshold in the plan.

Chair Vitali noted that a new elevation is being created with the pink line on the plan. He said the distance between the pink line and the wetland is 43 ft. Mr. Lord said this was correct. Chair Vitali said there will be a five to six foot drop from that point in 43 ft. or less. Mr. Lord said the highest elevation he sees is 259 ft. and will go down to 255 ft. Chair Vitali said fill is being added to the upland review area. Mr. Lord said the grade is being brought down. Mr. Lord said this elevation is in existence today. Chair Vitali said this elevation is not where the pink line is located, noting the elevation stops behind the building. Mr. Puttock said a one-foot high, by four-foot wide berm will be created and will deflect water and arborvitaes will be planted along the base. Chair Vitali asked the elevation of the parking lot. Mr. Puttock said in the corner it is 258 ft. and in the front corner near the building it is 257 ft. Chair Vitali noted that at the other side of the berm it is 256 ft. He also asked why there was 43 ft. of upland review area instead of 50 ft. He said there was a rapid decrease of slope in the area. Mr. Puttock said this was a gentle slope. He noted on the north side of the berm the proposed elevation is 258 ft. and goes down to 255 ft. which is three feet in 43 ft. He said the reason for the shape of the curve was to be able to turn a truck around and not hit any vehicles in the parking area and to allow for a gentle slope for the swale on the other side of the berm.

Commissioner Kern asked about the location of the snow shelf. Mr. Puttock said the snow shelf would be located at the site of the proposed building into the bank. Commissioner McKeen said overall she liked the plan. She said she realized there may be some issues with the amount of upland review area, but there has been a lot of abuse to this wetland over the past, however many owners, and overall the planting plan and restoration plan are nice. Vice-Chair Parent said the Applicant has laid out a lot of improvements to the plan. Chair Vitali said he wanted a site investigation.

**MR. PARENT: MOTION ON APPLICATION #A19-3.7/988 EAST CENTER STREET, THAT THE
COMMISSION CONVENE A SPECIAL MEETING ON THE PREMISES AT 5 P.M.
THURSDAY, MAY 9, 2019**

MS. PHILLIPS: SECOND

VOTE: UNANIMOUS

DISCUSSION

Chair Vitali said he would keep the Applicant informed, stating there may be modifications to the time.

Chair Vitali entertained Public Comment at this time.

Public Comment

John LeTourneau, 3 Regent Court, stated he is very familiar with this property. He said he had looked to purchase this property 20 to 25 years ago to locate his store. He said the property at that time, was in rough shape. He said he walked every inch of the property and researched its history, noting it hasn't been the same since 1850 when the railroad came through and changed everything. He said subsequent to this, different owners changed the land. Mr. LeTourneau said the land in the back, the grass area that swales down to the end of the property, is man-made. He said at some point, a farmer had dug out the swale and taken soil from there.

Mr. LeTourneau said he was amazed at what was now being done to this property. He said when one goes to the back of what is now the parking lot, where there is a gravel area meets the grass area, what used to be there was the old granite steps from the Post Office. He said the railroad also dumped rail there. He said one of the former owners had the entire rail removed. Mr. LeTourneau said someone else also removed the remnants of the stairs. He said a former owner created the divot that is now called the wetlands. Mr. LeTourneau said this Applicant has taken an eyesore out of Wallingford. He said technically a mistake was made but the mistake was made on a man-made wetland. He said this is the next generation of this land of man-made on this land. He said the Applicant is not draining a swamp, but make the property better.

Chair Vitali said the only way this issue will be resolved is at the site investigation. Chair Vitali agreed with Ms. O'Hare that all on-site activity should stop. She said she noticed that Mr. Lord's report didn't have a drawing of Planting Area A,B, & C with all the plant species. Mr. Lord said there wasn't a drawing that specifically showed Planting Area A,B, & C. He said these are described in the narrative section of his report. Ms. O'Hare said she would like a drawing when the planting plan is approved. Ms. O'Hare said she would prefer natural plantings to the 25 arborvitae. She stated that on the photograph of the old oak, the roots were never inundated when she first saw the property in 2005. She said she is concerned. Chair Vitali noted this was corrected when the swale was cut and drained.

Ms. O'Hare stated there is still fill around the oak. Ms. O'Hare said gravel wasn't removed from the Tilcon Property and didn't understand the Godfrey Plan, whether there is a drop in grade where their property meets the Tilcon property or whether it would be level. Ms. O'Hare said she was told the Applicant had no intention of removing the fill from the Tilcon property because they believed there was no jurisdiction. She said the Corporation Counsel will look into whether a Federal permit is needed to fill the upland review area and wetlands on that property, or if a local permit is needed. She said the recently placed gravel remains.

ITEM TABLED TO THE MAY 9th SPECIAL MEETING.

Chair Vitali noted the conversation above addressed Item #1 under “Violations”. Ms. O’Hare noted that action cannot be ordered at the Special Meeting. Atty. Ceneviva said he and his client had no problem with the direction from the Commission that whatever is determined to be required to be done at the site walk, the Applicant would be happy to complete before the Regular June 5, 2019 IWWC Meeting.

5.#A19-3.8/70 Brentwood Drive – (retaining wall at pond)

Appearing in front of the Commission was Chris Bessette, Applicant/Contractor. Chair Vitali noted that in the past, that pond was not wet and has become a wet pond. He said the residents filled the drain in bottom so they could have a wet pond. He said DEEP got involved in an attempt to get the pipe unplugged, but it never occurred. Mr. Bessette noted he found old property plans and the pond doesn’t exist and now there is water there and it’s a pond. Chair Vitali said the pond is a valuable quality but it’s not a wetland. Mr. Bessette said he agreed with Ms. O’Hare’s four Conditions of Approval.

Ms. O’Hare noted there was some discussion with Mr. Bessette about a fence on top of the wall, stating that currently there is a rickety lattice fence. She suggested proposing a fence on the top for safety and to fold this into the application. Mr. Bessette said he reached out to his client and their Association had a meeting and are in agreement and want to see a railing installed for safety purposes. He said this will be added for the record. Mr. Bessette said the wall will be constructed of 6 ft. x 6 ft. pressure treated timbers, identical to what is there. He said there will be 50 linear ft. and the fence will consist of galvanized chain-link.

Chair Vitali entertained a motion on Significant Activity.

MR. PARENT: MOTION THAT APPLICATION #A19-3.8/79 BRENTWOOD DRIVE – (RETAINING WALL AT POND) BE DEEMED NOT A SIGNIFICANT ACTIVITY

MS. PHILLIPS: SECOND

VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES

Chair Vitali entertained a motion on the application.

MR. PARENT: MOTION THAT APPLICATION #A19-3.8/79 BRENTWOOD DRIVE – (RETAINING WALL AT POND) BE APPROVED SUBJECT TO THE CONDITIONS SET FORTH IN THE ENVIRONMENTAL PLANNER’S REPORT DATED APRIL 26, 2019, WHICH IS THE FOLLOWING:

1. EROSION CONTROL MEASURES ARE IN PLACE AND MEET THE APPROVAL OF THE ENVIRONMENTAL PLANNER PRIOR TO ANY FURTHER WORK BEING CONDUCTED ON-SITE;
2. ANY CONSTRUCTION DEBRIS – NO MATTER HOW SMALL – MUST BE IMMEDIATELY REMOVED FROM POND SHOULD IT DROP, FALL OR BLOW INTO THE POND;
3. HAY MULCH SHOULD BE APPLIED TO DISTURBED LAWN AREA AS MAY BE NEEDED;
4. AT END OF PROJECT, SILT FENCING MUST BE REMOVED WITH CARE AND TAKEN OFF-SITE;
5. THE PERMIT WILL INCLUDE A CHAIN-LINK FENCE ON THE RETAINING WALL

MS. PHILLIPS: SECOND

VOTE: PHILLIPS – YES; PARENT – YES; KERN – YES; MCKEEN – CHAIR VITALI – YES

6.#A19-4.1/3 Technology Drive – Klaschools – (expansion)

Ms. O’Hare said this item was tabled on request of the Applicant. She said the wetlands were flagged this week and a Site Walk should take place. The Commission decided to perform a Special Meeting Site Walk May 9 at approximately 6 p.m. at 3 Technology Drive following the East Center Street Site Walk.

MR. PARENT: MOTION THAT THE COMMISSION CONDUCT A SPECIAL MEETING REGARDING APPLICATION #A19-4.1/3 TECHNOLOGY DRIVE – KLASCHOOLS – (EXPANSION) ON THURSDAY, MAY 9, 2019 AT 6 P.M. FOLLOWING THE PREVIOUSLY APPROVED SPECIAL MEETING FOR #A19-3.7/988 EAST CENTER STREET AT 5 P.M.

MS. PHILLIPS: SECOND

VOTE: UNANIMOUS

NEW BUSINESS – NONE

RECEIPT OF NEW APPLICATIONS

1. **#A19-4.2/155 John Street** – Town of Wallingford Sewer Division – Water Pollution Control Facility Phosphorus Reduction Project – (modification to IWWC #A19-11.1) – received by Chair Vitali.
2. **#A19-4.3/153 Chimney Hill Rd** – Lauren Young – (several yard improvements) – received by Chair Vitali.

Ms. O’Hare said Mr. Mrozinski went to the site and wrote a report. Ms. O’Hare noted the Applicant wants to do a lot of changes to her backyard which is wet. She said this is a complicated application with several options and alternatives to consider.

REPORTS & COMMUNICATIONS

1. Letter to IWWC from Janis M. Small, Corporation Counsel, re: Boards and Commissions Training Ordinance – Training session; FOI & Code of Ethics, Council Chambers, Town Hall, June 6, 2019, 6:30 p.m. – received 4/8/19

VIOLATIONS

1. Notice of Violation - **988 East Center Street** – Benchmark Land Development, LLC & Providence and Worcester Railroad Company – (unpermitted filling & drainage alteration) – discussed above under “Old Business” Item #4.
2. Notice of Violation – IWWC **#A16-2.1/530 Church Street** – Joseph Mineri, Timberwood Homes, LLC – (erosion & non-compliance issues) – staff report

Ms. O’Hare said the issue was the storm basin was supposed to be finished two years ago and wasn’t done in year one and two. She said the storm basin works, but the south side is raw and has gulleys and will have to be scooped out. She said plantings will have to be installed in the bottom. Ms. O’Hare said a Notice of Violation was sent out and Mr. Mineri and several property owners attended the Dec. 5, 2018 IWWC meeting and Mr. Mineri was directed to have everything done by June 15 because it would be too wet in the spring to do the basin. Ms. O’Hare said Mr. Mineri was given a lot of directives, some of which were done in the winter. She said she has gotten calls from several lot owners requesting the grass be installed. She said the grass seed was put in November and it never took. Ms. O’Hare said Mr. Mineri has by June 15, to wrap this all up. Ms. O’Hare said Atty. Small suggested the IWWC give an action deadline.

Commissioner Kern asked why the Commission is involved with the lawn issue. Ms. O’Hare pointed out they are bleeding into the drainage swale which goes directly into the basin. Commissioner Kern suggested conferring with Atty. Small and sending a letter regarding the bond and give a 30-day restoration time and if not completed, the bond will be pulled. Ms. O’Hare said she contacts Mr. Mineri every two weeks. Chair Vitali said instead of a phone call, send a letter.

3. Notice of Violation – **52 Hanover Street/Quinnipiac River** – Mary Jane Webster Legace, et al Frank Vitale – (forest removal)

Chair Vitali said Mr. Mrozinski and Ms. O’Hare are working on this issue.

4. Notice of Violation – **12 Old Colony Road** – Old North Colony Road Properties, LLC – (unpermitted stockpile deposition, uncontrolled erosion & deposition wetlands and stream upland review area)

Ms. O’Hare said she was on-site this afternoon with Bill Hoynack, owner’s representative who is in attendance at tonight’s meeting. She said there was drainage issues where S. Broad Street meets Old Colony Road and this is what got the Planning Dept. and her involved. She said this site was approved

for temporary fill to create a development pad which never happened. She said instead, this site was used for a stockpile yard. Ms. O'Hare noted this issue is not permitted by zoning and her issue is there was never a wetlands permit for the development pad because the Attorney claimed there was no activity within the IWWC's jurisdiction. Ms. O'Hare noted the basin also doesn't discharge and there is no discharge pipe. She said there were many violations, but the most egregious was where the erosion from the stockyard channeled and carved a gully three or four ft. deep going down the slope to the lower part of Old Colony. Ms. O'Hare said the major violation is the sediment which has been deposited in the stream. She said there is gravel material, dirt from the slope and chunks from asphalt pieces. Ms. O'Hare said Commissioner Kern also visited the site with her and had recommendations on how to stop the water from going over the slope and how to fix the slope and the deposited materials out of the stream.

Ms. O'Hare said the water has been redirected and stockpile water no longer goes over the slope which now flows to the east towards the grass swale. She said in a few weeks, the water will be sent down to the basin. Ms. O'Hare said Old Colony Rd. which is a Town-owned dirt road so when it rains the material comes down. She said the anti-tracking pad has also been moved out of the IWWC's jurisdictional area and a silt fence will be constructed around the outer edge which is required. She said the amount of material to move is enormous.

Mr. Hoynack, representing the company, Old Colony Road Properties, LLC, told the Commission he has been working with Ms. O'Hare. He distributed a letter to the Commission and Ms. O'Hare. He said when he first received the letter and met with the owners. He said stockpiles have been moved and noted all the institutional controls were originally on-site. He said this is being worked on to the satisfaction of Ms. O'Hare and the Commission hopefully in a timely manner. He said he is tracking what is being done and itemized this in his letter. Mr. Hoynack went over what has been completed. He said the biggest challenge is moving 30,000 tons of soil to different areas. He said the drainage was always designed to go the east into a grass swale. He said the west side which borders the stream, that water was designed to shed off the end and not to the back.

He said the swale is open to the east side and water is going there. Mr. Hoynack said the back will be opened up and connect this to the detention basin which will be armored. He said the fix for the eroded gully will be a quick fix, but noted the entire area under the soil is all asphalt and this is what went down but didn't travel far. He said the gully will be cleaned out and stabilized with rip-rap. He said he wants to wait until this gully dries out. Mr. Hoynack said work in the stream and upper bank will not take more than two days of work. Mr. Hoynack said he will give Ms. O'Hare a monthly basis. He said he met with Ms. O'Hare on-site on Wednesday, May 1, 2019 and believed Ms. O'Hare was satisfied. He said he would like to get this done as soon as possible and moving all the soil is key.

Ms. O'Hare asked the Commission if they liked the proposed drawing by the owner for restoring the slope with the rip-rap. Commissioner Kern said the rest of the piles are stabilized. He said he would like to see the water going a different direction and this would cure 90% of the erosion problem. He said he

would also like to see the sandy soil in the brook which washed in there removed. Mr. Hoynack said the water is now going to the east side.

ADJOURNMENT

Mr. Parent made a motion to adjourn the Meeting at 9:40 p.m. Ms. Phillips seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary