

**Inland Wetlands & Watercourses Commission
Regular Meeting
Wednesday, July 15, 2020, 7:00 p.m.
Room 315, Town Hall
45 South Main Street, Wallingford, CT**

(REMOTE MEETING)

MINUTES

Chair James Vitali called this (REMOTE) Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission to order at 7:00 p.m. He said this is a remote-held meeting and it is being recorded. He asked Commissioners and online listeners to mute their microphones unless they are speaking.

A. PLEDGE OF ALLEGIANCE – The Pledge of Allegiance was recited.

B. ROLL CALL

PRESENT: Chair James Vitali, Secretary Nick Kern, Commissioner Deborah Phillips, Alternates Aili McKeen, Robert Simon and Jennifer Passaretti, and Environmental Planner Erin O’Hare.

ABSENT: Commissioner Michael Caruso.

C. CONSIDERATION OF MINUTES

1. Regular Meeting (Remote), June 3, 2020

Ms. O’Hare recommended two corrections to page 8, Item H.3. for 122 Chimney Hill Road: At the end of paragraph 2, to replace “cite” with “request”, to read: “but to request Mr. Reid to apply for an after-the-fact permit.” And, in the same sentence, to add at the end: “and the Chair can approve it administratively.”

MS. PHILLIPS: MOTION THAT WE APPROVE THE MINUTES OF THE JUNE 3RD REGULAR MEETING AS SUBMITTED WITH THE CORRECTIONS MADE TONIGHT.

MR. KERN: SECOND

VOTE: MS. PHILLIPS – YES; MR. KERN – YES; MS. MCKEEN – YES; CHAIR VITALI – YES

D. OLD BUSINESS

1. #A18-1.2 / 801 North Colony Road & 6 Beaumont Road / Padens Brook – NERP Holding & Acquisitions Company, LLC – (commercial development) – Request for bond release

Ms. O’Hare said the site is not ready. There is erosion in the bend of the river plus knotweed all through the river corridor. It’s badly eroded at the top. Their engineer is going to redesign it. They took the second building out of the application, and that changed the grading in this vicinity. Ms. O’Hare will give the Permittee a list in writing of what needs to be done. There was no action tonight.

2. #A20-6.1 / Quinnipiac River / State of CT Rights Of Way Rte. 150 (MainStreet) & Rte. 68 (Church Street) – Town of Wallingford Water Division – (bridge water utility rehabilitation work & temporary accessway installations & scaffolding)

Appearing remotely were Thomas Flannery, Water Division, and Thomas Knowlton and Matthew Sanford from Milone and MacBroom. Mr. Flannery said this work is to be done at the Routes 68 and 150 overpasses to replace water pipe, pipe hangers, insulation and materials under the bridge, plus scaffolding in the riverbed. He said Mr. Knowlton will take site questions and Mr. Sanford will handle wetlands and environmental issues.

Chair Vitali asked for Commissioner questions.

Commissioner Kern asked if they will disturb the bank alongside the bridge. The water comes up when we have thunderstorms. What are you going to do?

Mr. Flannery said we'll have construction access scaffolding underneath the bridge. For a major storm we would remove our equipment 24 hours in advance.

Chair Vitali asked how long this will take? When will it be done?

Mr. Knowlton said actual construction would be 1 to 1½ months on each bridge, but it's longer because we have middle and final portions. Mr. Flannery said it will be done in the next fiscal year—work will not begin until after July 1, 2021.

Ms. O'Hare said her Environmental Planner's Report of July 10th went out in the Commissioners' packets. She asked them to see p. 4, where she recommended eight Conditions of Approval. She pointed to #2, which calls for protection of the one or two mature Sycamore trees by the river. Maybe they can shift the work mat over to spare one or both of these trees because the tree roots hold the bank together.

Mr. Flannery said they will try to save at least one tree.

Chair Vitali asked if they are agreeable with the Conditions of Approval.

Mr. Flannery said they are.

Chair Vitali asked for a Motion on the Significance of this activity.

MS. PHILLIPS: MOTION THAT APPLICATION IWWC #A20-6.1 BE DETERMINED NOT A SIGNIFICANT ACTIVITY.

MR. KERN: SECOND

Chair Vitali asked for discussion on the Motion. There was none.

VOTE: MR. KERN - YES: MS. PHILLIPS – YES: MS. MCKEEN – YES: MS. PASSARETTI – YES: CHAIR VITALI – YES

MS. PHILLIPS: MOTION THAT APPLICATION #A20-6.1. QUINNIPIAC RIVER / STATE OF CT RIGHTS OF WAY RTE. 150 (MAIN STREET) & RTE. 68 (CHURCH STREET) – TOWN OF WALLINGFORD WATER DIVISION – (BRIDGE WATER UTILITY REHABILITATION WORK & TEMPORARY ACCESSWAY INSTALLATIONS & SCAFFOLDING) BE APPROVED WITH THE CONDITIONS OF APPROVAL IN THE ENVIRONMENTAL PLANNER’S REPORT OF JULY 10, 2020.

MR. KERN: SECOND

Chair Vitali asked for any discussion on the Motion. There was none.

VOTE: MS. PHILLIPS – YES: MR. KERN – YES: MS. MCKEEN – YES: MS. PASSARETTI – YES: CHAIR VITALI – YES

3. #A20-6.2 / 155 East Street – Town of Wallingford Sewer Division – Water Pollution Control Facility Phosphorous Reduction Project – modification to IWWC #A18-11.1 – (fill installation in Upland Review Area)

Appearing remotely were Mr. Neil Amwake, General Manager of the Water & Sewer Divisions, and Mr. Dennis Setzko and Ms. Maureen Crowley with AECOM.

Mr. Amwake said we showed our post-grading plans and planting plans and we stated about surface water runoff on each of the sites.

Chair Vitali said, instead of removing the stockpiled soil, you’re going to create a berm and plant grass on it.

Ms. O’Hare had walked the site with them two weeks ago. Her Environmental Planner’s Report of July 10th to the Commissioners included her suggested four Conditions of Approval. She had no additional comments.

Ms. Crowley indicated that the Sewer Division would accept the Conditions of Approval.

Chair Vitali asked for Commissioners’ questions. There were none. He asked for a Motion on the Significance of this activity.

MS. PHILLIPS: MOTION THAT APPLICATION IWWC #A20-6.2 / 155 EAST STREET – TOWN OF WALLINGFORD SEWER DIVISION – WATER POLLUTION CONTROL FACILITY PHOSPHOROUS REDUCTION PROJECT BE DETERMINED NOT A SIGNIFICANT ACTIVITY.

MR. KERN: SECOND

VOTE: MS. PHILLIPS – YES: MR. KERN – YES: MR. SIMON – YES: MS. PASSARETTI – YES: CHAIR VITALI – YES

MS. PHILLIPS: MOTION TO APPROVE APPLICATION IWWC #A20-6.2 / 155 EAST STREET –

TOWN OF WALLINGFORD SEWER DIVISION – WATER POLLUTION CONTROL FACILITY PHOSPHOROUS REDUCTION PROJECT BE APPROVED WITH THE CONDITIONS IN THE ENVIRONMENTAL PLANNER’S REPORT OF JULY 10, 2020.

MR. KERN: SECOND

VOTE: MS. PHILLIPS – YES: MR. KERN – YES: MR. SIMON – YES: MS. PASSARETTI – YES: CHAIR VITALI – YES

4. #A20-6.3 / 454 Main Street & 120 Church Street / Meetinghouse Brook – United Concrete Products, Inc. – (span bridge installation)

Appearing were Ms. Megan Raymond, Wetlands Scientist, and engineer Mr. Kishor Patel from Milone and MacBroom and owner Mr. Jon Gavin of United Concrete.

Ms. Raymond said United Concrete owns two parcels on Main Street and Church Street. Meetinghouse Brook borders the two properties. The company is asking to install an interior span over the brook. We’re just downstream of the railroad crossing, just west of it and near the heliport. We have vegetated wetlands and a water crossing. The water crossing has deteriorated over time. I have materials to show, or I can describe them.

Chair Vitali noted that the Commissions had some pictures which Ms. O’Hare handed out. You’re outside of the wetlands?

Ms. Raymond said, Yes, we’re offset over Meetinghouse Brook. Northerly to the east is floodplain. This area is a 2-square-mile watershed. We have no modifications to the existing floodplain. The actual location will be to do the bridge work within the floodway. She described the activities for installation of the 85-foot-long span bridge.

Chair Vitali said this is a passive application, a basic project?

Ms. Raymond said, Correct.

Chair Vitali asked if any Commissioners have questions.

Commissioner Kern said No, and he is familiar with the area.

Chair Vitali said that is by the old airport and where the old railroad crossing came in.

Commissioners Phillips, McKeen and Simon had no questions.

Ms. O’Hare asked the engineers if they had seen her suggested Conditions of Approval in her Environmental Planner’s Report of July 10.

Neither Ms. Raymond nor Mr. Patel had seen the Conditions of Approval.

Mr. Gavin said he received the memo and sent it on to Mr. Patel.

Ms. O'Hare explained the first condition is the Town's standard erosion control condition. Ms. O'Hare's second condition expresses that the Water & Sewer Division's concerns would be complied with—as per Water & Sewer Division Senior Engineer Erik Krueger's attached memorandum of June 30, 2020, to Ms. O'Hare regarding State easements and sewer easements.

Mr. Patel said, Yes, the engineers can work with that. We're not going to affect the sewer manholes.

Ms. O'Hare asked about the nature of the State easement.

Mr. Patel said their work is outside the State easement. Mr. Gavin said when they put the railroad easement in, they and the Town of Wallingford fixed it up, and the DEP had some dissent over that. So the State wanted the 50- to 60-foot easement so they could go in and fix the stream.

Ms. O'Hare said she didn't know if it would require fixing in the future—OK, then.

Chair Vitali asked for Commissioners' comments. There were none. Comments from the public? None.

Chair Vitali asked for a Motion regarding the Significance of this application.

MS. PHILLIPS: **MOTION THAT APPLICATION #A20-6.3 / 454 MAIN STREET & 120 CHURCH STREET / MEETINGHOUSE BROOK – UNITED CONCRETE PRODUCTS, INC., BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

MR. SIMON: **SECOND**

VOTE: **MS. PHILLIPS – YES; MS. MCKEEN – YES; MR. SIMON – YES; MS. PASSARETTI – YES; CHAIR VITALI – YES. MR. KERN ABSTAINED.**

Chair Vitali called for a Motion to approve or deny the application.

MS. PHILLIPS: **MOTION TO APPROVE APPLICATION #A20-6.3 / 454 MAIN STREET & 120 CHURCH STREET / MEETINGHOUSE BROOK – UNITED CONCRETE PRODUCTS, INC., (SPAN BRIDGE INSTALLATION) BE APPROVED AS SUBMITTED WITH THE CONDITIONS OF APPROVAL CONTAINED IN THE ENVIRONMENTAL) PLANNER'S REPORT OF JULY 10th, 2020.**

MR. SIMON: **SECOND**

VOTE: **MS. PHILLIPS – YES; MS. MCKEEN – YES; MR. SIMON – YES; MS. PASSARETTI – YES; CHAIR VITALI – YES**

E. NEW BUSINESS – None.

F. RECEIPT OF NEW APPLICATIONS (up to 7/14/20)

Environmental Planner Erin O'Hare stated that Items 1, 2, 5 and 8 as follows had been granted administrative approval prior to this meeting.

- 1. #A20-6.4 / 40 Wall Street & Wharton Brook – Michael Trocchio – (aboveground pool) – Request for administrative approval – administrative approval granted 6/12/20**
- 2. #A20-6.5 / 6 Jodi Drive – Richard Steinau - (fencing) – Request for administrative approval – administrative approval granted 6/22/20**
- 5. #A20-6.8 / 72 Anderson Road – Christopher & Jessica Santore – (in-ground pool, patio, tree removal, fencing, shed) – Request for administrative approval – administrative approval granted 7/6/20**
- 8. #A20-7.3 / 122 Chimney Hill Road – Steven V. Reid – (after-the-fact filling for ATV track) – Request for administrative approval – administrative approval granted 7/14/20**

Ms. O'Hare said the Commission had directed at the June meeting that this application could be approved administratively.

Ms. O'Hare stated these remaining Items: 3, 4, 6, 7 and 9 will come before the Commission at its next meeting.

- 3. #A20-6.6 / 6 Grieb Trail – Tyler Sweeney – (patio)**

Appearing remotely was Mr. Tyler Sweeney.

Chair Vitali asked Mr. Sweeney if the patio is installed yet. Mr. Sweeney said No. Chair Vitali explained that, typically, we don't approve it when it's just come in, until the next month. Ms. O'Hare said this is a new application, and we are still dealing with Mr. Sweeney as to the fill violation in Item H.4. below.

- 4. #A20-6.7 / 17 Fritz Place – John Ricci – (two-car attached garage)**
- 6. #A20-7.1 / 9 & 21 Toelles Road & Wharton Brook – Pfizer Inc. - (soil remediation project)**
No one appeared. Ms. O'Hare said this is the Ametek property, but the application is by Pfizer.

Ms. O'Hare stated the remaining applications were submitted since Tuesday (July 14), so the Commissioners do not yet have materials in their packets.

- 7. #A20-7.2 / 59 Wooding Road – Charles Hemstock – (in-ground pool, patio surround, fencing, unpermitted cleaning & grading to stream near pond) – Request for administrative approval**
- 9. #A20-7.4 / 809 North Main Street Extension - David T. Warren Family Trust – (storage garage & stormwater management facility) – Request for administrative approval**

Chair Vitali indicated all these applications are "received".

G. REPORTS & COMMUNICATIONS – (Taken up at close.)

H. VIOLATIONS

1. Notice of Violation – 1245 Old Colony Road & Quinnipiac River – Jerzy Pytel – (unpermitted clearing & filling near river)

No one appeared for this item.

Ms. O'Hare said she went out there today and took photographs. The erosion is a lot worse. They did put in a silt fence, but half of it is falling, and the other half isn't trenched in at all. That road was built where it shouldn't have been, but that fill has to come out so they may need a road to do that. There's also a lot of fill in the 100-year floodplain. We're waiting to hear about fill removal from the Town Planner.

This Notice of Violation will be continued to the Commission's September 2, 2020, meeting agenda.

2. Notice of Violation - 950 South Colony Road – 1NRSJ, LLC – carwash facility – (unpermitted filling)

Appearing remotely were owner Mr. Marcus Komal, Attorney Norman Fishbein and engineers Mr. George Cotter and Mr. David Carson.

Ms. O'Hare said nothing has happened. She has been out there with Acting Town Planner Thomas Talbot. The owner did get a few chairs and couches out of there, but a lot remains. About five trees will die if the fill doesn't come out around them. The owner's attorney and the owner are here. I sent them a copy of the Planning Department's violation letter about fill in the floodplain, and I got a fax reply from the owner and from Mr. George Cotter, his engineer.

Attorney Fishbein said originally he was told to contact the Planning and Zoning Commission.

Ms. O'Hare said she spoke with Zoning Enforcement Officer Amy Torre, who said this matter has to come before Inland Wetlands first. So Ms. O'Hare asked Mr. David Carson, who has technical information, to be here tonight.

Mr. Carson joined the meeting remotely at this time. He said they did an after-conditions survey and compared that with the photos. There are 170 cubic yards of material that was placed in the wetlands buffer. It's all outside of the wetlands. But there's about 50 cubic yards that fall in the 100-year floodplain. It's mostly 3" to 6" of rock. The slope is totally stable--no signs of erosion or sandiness. It's our feeling that the actual removal of this material has the potential to create more problem than leaving it in, and we are looking for some proposed mitigation measures to leave it in place. The floodplain is 500 feet wide, really massive. Our conclusion was that the 50 cubic yards would have zero impact on the flood elevation, but we realize it would be a planning issue rather than an environmental issue. I advise that we could leave it in place and go to Planning and Zoning to seek a mitigation and then to come back to the IWWC. It's really impossible to remove the 50 yards. It's down at the bottom of the slope. We did see Ms. O'Hare's original report. We agreed that this would precipitate more damage. We'd bring in some plantings and put a fence. The Applicant would be willing to do that. Other conditions would be up to the Commission and the Town.

Chair Vitali said it is 3" to 5" of rock. I don't know how this can grow anything. It's 50 yards of floodplain—but the damage is done. So a portion of it is in the floodplain. We have issues with the trees and the activities that are going on.

Mr. Carson said we would agree as to the mitigation. The two large trees at the top almost on the fringe of the 50-foot buffer could be dug around and salvaged. The small ones that are down, those will probably die. We suspect that same thing might probably happen if we went in there with a machine to remove the material.

Ms. O'Hare said, in the Environmental Planner's Report back in May, I said if you remove the fill, you can restore the forest on the slope with new plantings. So I ask the Commission, would the Commission have approved it if they had come in the traditional way with an application for the removal of trees and putting the fill all the way down the slope? Why would someone build a road behind the car wash into the woods? Why was this built, and would the Commission have approved it with filling going right up to the floodplain? And in 2020, we don't allow filling of floodplains unless you can provide compensatory flood storage. It's a very large property. Mr. Carson couldn't find any other area on the property to use for compensatory storage. The carwash is in the front.

Attorney Fishbein said he thought the applicant was going to Planning and Zoning first. Zoning Enforcement Officer Amy Torrey said it's going to Inland Wetlands and Watercourses. So I guess you have to deal with it first. Another mitigation some other way, perhaps—since taking it down, according to our engineer, it causes more damage.

Chair Vitali asked, in a poll of the Commissioners: What is your feeling: 1) To take the fill out; or 2) To try to come up with some mitigation; or 3) To leave the bulk of the fill there?

Ms. Phillips said to take the fill out.

Mr. Kern did not agree. He believes that it should stay and to put a fence to stop people from throwing things down there. If you take the fill out, you'll have an erosion problem. I believe the type of the soil is a sandy soil. There's nothing you can do with a big hole that's almost impossible to stabilize. Having a fence there has to stop it.

Commissioner McKeen asked if the trees are living.

Ms. O'Hare said they were alive a few months ago. She did want the material taken out and to have more trees planted on the slope.

Commissioner McKeen said that the fill should come out. Taking out the floodplain could cause a problem upstream. You probably can sustain the trees. We don't want opaque fencing that people will throw things behind.

Commissioner Simon thought the fill should come out. Take the rock out and try to save those trees.

Commissioner Passaretti was in favor of having the fence, but the fill should come out to undo what was done. She did not know if the trees are going to make it.

Chair Vitali said he did not like the fill being there. If we can get the fill out, I think a chain-link fence would keep the garbage out. I'm in favor of the fence, but with the condition of taking fill out from around all those trees.

Mr. Carson suggested to leave the trees and to plant additional ones up on the top level between the two oaks that can be saved, at the 14-foot level area on the top of the hill that can be reforested, behind the fence but ahead of the slope.

Mr. Komal asked Ms. O'Hare if all the trees are dead, or is there green foliage?

Ms. O'Hare said she has not been out there in two months. They had beautiful leaves then.

Mr. Komal said that trees near the pavement died before.

Chair Vitali said Mr. Komal had indicated that the upper trees died before the fill was put in there. And the trees that you're talking about, surrounded by the fill, are still good. With that poll, 2/3 of the Commissioners are in favor of taking the material out. So we can go to a vote, or you can go to Planning and Zoning and come back here. It's your choice. But Ms. O'Hare, do you know what P&Z wants to do?

Ms. O'Hare said it's handled by P&Z staff, not the Commission. I don't know what they want to do. But the fill in the floodplain is within the Wetland Commission's jurisdiction. The fill is one to three feet from the wetlands—it's within Wetlands jurisdiction. Only if the fill is not going to be removed, then Planning and Zoning has the violation. It is a violation with them, from April or May. They still have to deal with P&Z. The trees I am trying to save are probably in the middle of the fill, just out of the floodplain. So the fill could be removed around those trees. But why do we need a road 100 feet long and 20 feet wide behind the building?

Chair Vitali asked what is the purpose of the road?

Attorney Fishbein said he understood from Mr. Komal that the next-door property owner had the Right-Of-Way from the property to the north of this one and to the other property south of this. My client says it was filled in by the next-door neighbor. But there's no benefit for Mr. Komal to have a road across the back of his property.

Chair Vitali said so will this pathway come down?

Attorney Fishbein said there are blocks that have been put at the northern end of this.

Ms. O'Hare confirmed Jersey barriers were put there and it would take 5 minutes to remove them.

Chair Vitali said there was talk about putting a fence behind. That's going to remain a pathway?

Attorney Fishbein understood that the fence would be along this north-to-south border at the top of the hill, so people wouldn't drive into the property and throw things over the fence. He thought the fence would be so nobody coming from the north would have access to the property.

Chair Vitali asked if the Commissioners understand what is going on here with Planning and Zoning.

If we wait for a proposal from Planning and Zoning, we're talking about six weeks. If we take a position tonight, at least Planning and Zoning / the Zoning Official can know our options to: 1) Take all the fill out; 2) Take out the fill in the floodplain; 3) Take the fill out around the trees and leave the rest of the fill there and let P&Z decide. I am going to entertain a Motion to get some direction.

MR. KERN: **MOTION THAT MS. O'HARE GOES OUT THERE AND LOOKS TO SEE IF THE TREES THAT ARE THERE--IF THEY HAVE FOLIAGE, THAT MEANS THEY HAVE ACCEPTED THE FILL AROUND THEM, AND IF NEED BE IN PLACES TO GET THE FILL AROUND THE TREES OFF OF THEM—EITHER TO REMOVE THEM TO THE UPPER PART OF THE HILL OR JUST RELOCATED ON THE BANK BECAUSE IT'S STONY MATERIAL—TO HAVE THOSE OPENED UP SO THEY GET THE PROPER DRINKAGE OR THE RAIN OR WHATEVER; ALSO, TO SEE A FENCE PUT IN PLACE AND TWO TYPES OF BARRIERS SO THAT ROAD WOULD NOT BE USED IN THE FUTURE FOR ANY PURPOSE.**

Mr. Kern added that it would just cause havoc for everybody. That fence would be most important because people will come in after hours and toss things down the bank.

Chair Vitali asked if Mr. Kern's motion was to leave the fill and/or open up around the trees and to have a fence put in at the top of the slope?

Mr. Kern said, Yes, and a barricade put in and trees or remediation.

MS. PHILLIPS: SECOND

Attorney Fishbein noted you can't prevent the Right-Of-Way from being used because that's property on a deed. To require that the Right-Of-Way cannot be used is not legally a part of the motion.

Ms. O'Hare asked if the road could be taken out.

Ms. McKeen said, if the owner planted trees and there was use of the Right-Of-Way easement before the fill and the trees were put in place, then I understand that the Right-Of-Way can't be cited.

Attorney Fishbein said if there's a block/barrier on a Right-Of-Way, and the owner goes to court, the judge will say the Right-Of-Way cannot be blocked.

Commissioner McKeen said so planting trees on the area, would that also block the Right-Of-Way?

Attorney Fishbein said if you're talking about driving, that would block the northern entrance. You can't. Trees on the east border would be O.K. I think a court would allow the Right-Of-Way to remain.

Ms. Phillips asked if this Right-Of-Way is for people use or vehicle use?

Attorney Fishbein did not know. It would probably allow for foot and vehicles.

Mr. Carson said the easement doesn't specify. It is a written description, from the curb line of the existing pavement that's there, across the floodplain, to the easterly boundary line of the property which is some 600 feet away. The easement extends all the way from the paved area of the carwash totally across to the easterly boundary line of the property, which is 600 feet wide.

Ms. McKeen said she would like to see a map of that by the next meeting.

Chair Vitali asked if the Right-Of-Way, the easement that was given, is on a map, or does it just say that the property owner has the right to use it? I have the description. He read: *“Said premises are subject to a Right-Of-Way, by foot or vehicle, over that strip of land 227.81 feet in length running along the easterly property line at a width determined by using the existing paved curb line as the westerly boundary of said Right-Of-Way in favor of 920 South Colony Road, all as shown or to be shown on a map describing said Right-Of-Way prepared by the seller.”*

Mr. Carson told Chair Vitali that a map was never prepared. So the property itself is the 227 feet wide, traversing the property from north to south. East-west is not specified—from the pavement behind the carwash to the westerly property line, starting from the curb at the back of the carwash going westerly across the floodplain to the easterly chain-link (fence) line on the other side of the river. That’s some 600 feet away, 950 South Colony Road.

Chair Vitali said, without a map, you can have a legal easement anywhere. He said this Motion is by Mr. Kern, seconded by Ms. Phillips. If Ms. Phillips or Mr. Kern would remove it and make another Motion--or should we have Ms. O’Hare give it to Planning and Zoning?

MS. PHILLIPS: WITHDREW THE SECOND TO THE MOTION.

MR. KERN: WITHDREW THE MOTION.

Mr. Kern asked if the Commission could have this Violation matter tabled. We should have had a map of the easement that we could see. Could Mr. Carson or the original owner show us a map of that easement?

Chair Vitali agreed.

Attorney Fishbein said he will talk to his client.

Chair Vitali said this item is tabled until our next Meeting in September. We need a Right-Of-Way map.

Ms. O’Hare said, if there was a map, she cannot find it.

Chair Vitali asked Ms. O’Hare to flag those trees where fill is to be dug out around trunks..

Attorney Fishbein said he will meet Mr. Komal and Ms. O’Hare at the property. He said the applicant would dig around those trees in order to preserve them. Mr. Komal said he will do that.

Chair Vitali said we’ll table this to our Meeting in September, as the Commission does not meet in August.

3. Notice of Violation – 122 Chimney Hill Road & encroachment on 110 Chimney Hill Road (unpermitted filling) – This was taken up after Item H.7., below.

4. Notice of Violation – 6 Grieb Trail – Tyler Sweeney – (unpermitted filling)

Appearing remotely was Mr. Tyler Sweeney.

Ms. O'Hare went out there and saw considerable amounts of fill left.

Mr. Sweeney said he removed 7-plus cubic yards of the 12 yards of fill and dumped it into the wetland. The next day he removed it. Ms. O'Hare said that I had to remove 6 more yards. Ms. O'Hare came back and decided that wasn't enough. At that point and she required 2" here, 4", and 6" in other places.

Ms. O'Hare said she recommended putting stakes down so we could measure how much had to be taken out.

Mr. Sweeney showed two photos: #1 – This was taken the day Ms. O'Hare made us aware of the fill; and #2 – This was taken after removing the 12 yards. As of last week, she recommended that the Commission come out and inspect it and possibly do some kind of level plan to clean this up.

Chair Vitali said let's poll: Commissioners in favor of having a site investigation?

Ms. O'Hare explained that when the Notice of Violation went out to the Commissioners, there was a pile of fill that the owner says is 7.7 cubic yards. It's in a skunk cabbage swamp. So, plainly, the owner removed some fill and planted grass seed. So you'll go out and see 4"-5" of grass growing, and he also put in some silt fencing that I required. I went out there again with a shovel and went down about 6" of fill and also at 4" of fill. The new fill is red soil with no roots in it, and the old soil is dark brown with roots and humus and leaves in it. So I think it would be very easy to tell. This is not Mr. Sweeney's property; this is someone else's property. It should not have been put in the swamp in the first place.

The Commissioners agreed to the site visit on Tuesday, July 21 at 4:30 p.m. at 6 Grieb Trail. Attending will be Mr. Kern, Ms. O'Hare, Mr. Simon, Ms. Passaretti, Ms. Phillips and Chair Vitali. Ms. O'Hare will post the notice of this Special Meeting.

5. #A20-2.1 / 12 & 16 Northfield Road – (over-clearing in floodplain wetlands & URA issue)

No one appeared on item.

Ms. O'Hare said we had talked about the issue at this site at the June meeting. The site has been idle since then; nothing is changed.

6. 1103 Old Colony Road – NRWA, LLC – Memorandum to Janis Small, Corporation Counsel, re: enforcement options – forwarded 5/14/20

No one appeared on this item.

Ms. O'Hare said she was out there today. Nothing is changed. The Commission acted to put a Notice of Violation on the Land Records by the Law Department. Ms. O'Hare did have a meeting with the Corporation Counsel. The next step would be to ask for an injunction with the court. But the court is not taking motion filings now. So Ms. Small said to wait a week and go forward with a letter to the owner.

Chair Vitali agreed with this course of action.

7. Notice of Violation – 1152 Durham Road – William Monaco – (unpermitted clearing and grading to stream near pond)

No one appeared on this item.

Ms. O'Hare said this is a new Notice of Violation. The Commissioners haven't received the violation letter yet—it will go out tomorrow. The neighbor at 1168 Durham Road has a beautiful pond and several concerns because the owner here has taken trees down and graded right to the stream. That's a violation because you can't grade within 5 feet of the stream. So I asked the owner to put in a silt fence, except he hasn't done that yet. She notified the Water Division as well, as this stream flows into the Muddy River.

3. Notice of Violation – 122 Chimney Hill Road & encroachment on 110 Chimney Hill Road (unpermitted filling)

Appearing remotely was Mr. Steven Reid.

Ms. O'Hare said that administrative approval was recently granted as to the ATV track because it is not along the wetlands—it's along the upper part of the Upland Review Area. Do any Commissioners have a problem with removing the N.O.V. on this property?

Chair Vitali and all Commissioners said "None." He added, so we'll instruct you to remove the N.O.V. Let's take a poll on whether to remove the N.O.V. The voice poll result was:

Ms. Phillips – Yes; Mr. Kern – Yes; Ms. McKeen – Yes; Mr. Simon – Yes; Chair Vitali – Yes.

The Notice of Violation was removed.

G. REPORTS & COMMUNICATIONS

Chair Vitali noted these items as received:

1. DEEP Notice: Municipal Inland Wetlands Agency Comprehensive Training Program; online program (free/registration is required); received 6/10/20

2. Discussion of proposal to adopt fines for violations

Chair Vitali asked the Commissioners to think about this proposal. It may deter people from committing violations. What would the fine amounts be? He said that Ms. O'Hare would be issuing the fines. This discussion item will be sent forward to the September agenda.

I. ADJOURNMENT

MS. PHILLIPS: MOTION TO ADJOURN THE MEETING.

SECOND: MR. SIMON

VOTE: UNANIMOUS IN A VOICE VOTE TO ADJOURN

The meeting was adjourned at 8:42 p.m.

J. NEXT MEETING – September 2, 2020

Respectfully submitted,

**Kathleen L. Burns
Recording Secretary**