

**Inland Wetlands & Watercourses Commission  
Regular Meeting  
Wednesday, September 2, 2020, 7:00 p.m.  
Robert F. Parisi Council Chambers, Second Floor, Town Hall  
45 South Main Street, Wallingford, CT**

**MINUTES**

Chair James Vitali called this Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission to order at 7:00 p.m.

**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.

Chair Vitali requested all present adhere to the protocol to be observed during in-person meetings, as per the September 1 memorandum from Town Health Director Stephen Civitelli. Fifteen persons were in the audience.

**C. CONSIDERATION OF MINUTES**

**1. Regular Meeting, July 15, 2020**

**MS. PHILLIPS: MOTION THAT THE MINUTES OF THE JULY 15, 2020, REGULAR MEETING BE ACCEPTED AS SUBMITTED.**

**MR. SIMON: SECOND**

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

**2. Special Meeting, July 21, 2020**

**MS. PHILLIPS: MOTION TO APPROVE THE MINUTES OF THE SPECIAL MEETING ON JULY 21, 2020, ACCEPTED AS SUBMITTED.**

**MR. SIMON: SECOND**

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

**ABSTAINED: CHAIR VITALI**

Note: No meeting was held in August, per the IWWC 2020 calendar schedule.

**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 they have not taken action to correct issues. This item was carried forward to the October agenda.

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

Ms. O'Hare said that Mr. Sweeney could not appear tonight. She referred to her Environmental Planner's Report of August 31, 2020, for this application for the patio. The Commissioners held a Special Meeting July 21<sup>st</sup> on the property. Ms. O'Hare said she has no problem with the finished patio. Chair Vitali asked for a Motion on Significance of the patio.

Commissioner McKeen noted that the open filled path on the east invites dumping. Chair Vitali asked Ms. O'Hare to indicate to the Town that bollards in this area are requested to deter access to dumping equipment.

**MS. PHILLIPS: MOTION THAT APPLICATION #A20-6.6 / 6 GRIEB TRAIL – TYLER SWEENEY ( PATIO ) BE DECLARED NOT A SIGNIFICANT ACTIVITY.**

**MR. KERN: SECOND**

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

**ABSTAINED: MR. SIMON**

**MS. PHILLIPS: MOTION THAT APPLICATION #A20-6.6 / 6 GRIEB TRAIL – TYLER SWEENEY – PATIO – BE APPROVED AS SUBMITTED.**

**MR. KERN: SECOND**

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

**ABSTAINED: MR. SIMON**

See item H.3. below for a related issue at this property.

**3. #A20-6.7 / 17 Fritz Place – John Ricci – (two-car attached garage)**

Appearing was Mr. Frank Ricci for his mother Mrs. Nancy Ricci. Applicant, Mr. John Ricci, and Mr. Jim Ricci were in the audience.

Mr. Ricci said he is appearing on behalf of his mother, who lives at 17 Fritz Place. We went for a variance from P&Z, which was approved. The neighborhood predates zoning, and this is the only house

on the street with an attached garage. We want to expand the garage. My aunt lives there, also. It's about 1 ¼ acres. Our submitted papers show the watercourse history at the bottom on Route 68. Three developments including Bertini Lane and Preston Drive contribute runoff towards my mother's house on Fritz Place. Significant rains come down the stream by the house in this watershed, which is shown by dash marks. The banks on my mother's house are well established. The signs of erosion on the property are further down where the shed is. If approved, we'd demolish the shed and plant vegetation to stabilize that bank close to the creek. Referring to the photograph submitted, he said, next, I'm standing where the proposed garage wall would be and the vegetation. This is a watercourse that runs after it rains for and a couple of days, from upper Grove Street. A good part of the living room is within the 50-foot range of the brook. The proposed garage is 24 feet wide on 156 square feet of stone surface; the rest of it is the actual driveway. So there's no new land to be touched in excavation. We want the garage expanded to possibly allow an ADA ramp there at 8% grade with landings. The rain sheet flow goes over the entire driveway and down the bank to the watercourse which runs after it rains on upper Grove Street. So the garage and driveway cover 624 square feet, which will slow down the sheet flow before entering the stormwater system. We'd separate the runoff half on the driveway and over the rock surface and down the bank to the watercourse. Our plan is to take rain from the front garage gutter and put it onto a splash pad plus water from half of the house roof to the back of the house. All the front water is now increasing that sheet flow. We'd install a dry well if you think it's needed. The watercourse that runs after the rain is 20 feet to the side of the garage. The across-the-street neighbor's driveway is only 5 feet from the edge of the creek. The neighbor, whose house is within 50 feet of the watershed, hasn't objected to this. The proposed driveway is only 624 square feet, meaning .02 acre of disturbance. This will improve the erosion in the watershed. We're willing to put down 4" of straw mulch where there's no plants, silt fence, and hay bales. I looked at similar-set homes in a three-mile radius. The same watercourse is above on Grove Street, and the garage is 10 feet from the watercourse. On Parkview Road, the garage is approximately 15 feet from the watercourse; and another one is closer. Ms. O'Hare had suggested to put the garage on the other side of the house, but a bedroom is there and a sewer lateral. So we're looking at 764 square feet of non-pervious surface with sheet-flow going into the back yard. We'd be able to reduce the velocity of that sheet flow. We're willing to accept that water. All workers will be from Wallingford companies. We can be good stewards for environment and protect the watercourse. We ask that you accept this.

Commissioner Kern asked to know the distance from the garage to the bank.

Mr. Ricci said from the stone area directly to the water when it rains, it's exactly 20 feet.

Commissioner Kern said instead of putting a dry well in the back yard, I'd rather see sheet flow across the back yard with some riprap spreading out the water. The water coming off the roof is going to the back yard.

Mr. Ricci said, Yes, to put it out to riprap. So you'd put out riprap?

Commissioner Kern stated I'd like to see a riprap spreader so the water can sheet flow behind the house and dissipate. A lot of the water you have is due to upstream development. Today, we have to pay attention to that. I don't see anything wrong with this. It needs to be done by an experienced contractor, with soil erosion control barriers, who can keep away from the back.

Mr. Ricci assured the Commission that they would choose someone experienced to work on it.

Commissioner McKeen asked, instead of riprap, how about a rain garden?

Chair Vitali did not think there is enough area for a rain garden because it's on a steep bank.

Commissioner Phillips said last year you asked staff about a one-car garage. Do you need a two-car garage?

Mr. Ricci said we are constructing this to accommodate an ADA ramp, if needed, to come down to a landing and then the ramp to the house. This would keep my mother safely in her home.

Commissioner Simon asked, if drainage is being put in, how much fill is coming out? And to make sure that it doesn't go down to the sewer? Dig fill out, cover it and put it back.

Mr. Ricci said his brothers are contractors. We'll use it or take it off the property.

Commissioner Passaretti said you need a knowledgeable contractor. Why is this a different property from others, the elevation?

Chair Vitali said all these properties were built before the IWWC had purview. You don't have a very steep bank in a very short distance. That makes this a sensitive issue. The ADA, can it go in the front yard?

Ms. O'Hare asked if the ADA ramp is inside the garage?

Chair Vitali said but only for when she needs it, not when they build it.

Ms. O'Hare said so could two cars be put in there?

Mr. Ricci said his aunt's car and his mother's car will be in it now. If we put in a ramp, only one car can go in there.

Ms. O'Hare said her Environmental Planner's recommendations went to the Commissioners in the July packet with two photos attached. Most properties own to the midline of the stream. Here, 19 Fritz Place owns on both sides of the stream. But this, 17 Fritz Place, owns only 4 feet behind their shed; the rest is owned by 19 Fritz Place. So this proposed two-car garage will be 11 feet from the property line. I estimated it 18 feet from the stream, but Mr. Ricci said 20 feet. For reference, I was out there one and one-half year ago, and it was to be a one-car garage. Now it's a two-car garage. I've been called out to the Fritz Place neighborhood five or six times in the 15-plus years I have been here because of flooding. Just after the Mineri development, there was a big rainstorm that turned the river a coffee color. The Public Works crew had to come out to bring dirt out of Fritz Place because the runoff could not fit into the culvert and it jumped the stream banks, crossed the yards, and sediment ended up in the road. These streams are not meant to carry the water from the overdevelopment in the upper watershed. I wrote this in my report. I'm sure they can put in silt fence along the neighbor's so it is not on the neighbor's property.

Chair Vitali said but the brook is on the neighboring property and it's eroding?

Ms. O'Hare said Yes. We see it all over town, where trees are undercut from erosion.

Chair Vitali said so you would not want a two-car garage? So a one-car garage would fit the 15 feet of property?

Ms. O'Hare said, Yes, it's buildable and they have to not get rubble on the neighbor's property.

Chair Vitali said because we're dealing with impervious surface?

Ms. O'Hare said, Yes, and because of the lack of vegetation, and the top of the bank was undercut on the side of the neighbor's property.

Commissioner Kern asked, if this is just because of what is going on upstream, this gentleman is not going to be denied because of what's going on upstream. But he's going to re-route the runoff on the property with a level spreader and riprap, put grass matting down. I think what he's doing is not going to make a difference in what's going on out there.

Mr. Ricci said there's other garages on the same side of the street.

Chair Vitali said, when those houses were built, there were no regulations. The issue here is the effect it's going to have on the brook. It's in our charge.

Mr. Ricci said once the construction is complete, it's going to be a little bit of an enhancement than what's there now. And we're demolishing the shed. Right where the shed is, is where the brook turns to go down the street. Whatever erosion controls you recommend, I think, will make this watercourse a little bit safer.

Chair Vitali asked, do you have a set of plans for this project from a surveyor/engineer for the site? Do you have an engineer involved, not for the building, but for the site?

Mr. Ricci said he does not.

Chair Vitali said he is looking for a set of plans from a Registered Professional Engineer that will do stormwater management control: level spreader, hay bales, silt fence, shrubs.

Commissioner Kern said whatever the engineer drafts will be a plus for that. But that design: You may have to do more here because Ms. O'Hare will comment on it.

Chair Vitali said whatever the engineer drafts for the site—a set of plans that you follow for stormwater management—those should be on a plan that Erin approves.

Mr. Ricci said Yes.

Commissioner Kern said whatever the engineer drafts will need a plus to that. There's other reasons. Be aware that they may design it, but you may have to do more here and because Erin O'Hare will comment on it. I think he's still going to run into trouble during construction because of the types of soils, etc.

Also appearing was Ms. Rosalind Page, P.L.S., of Winterbourne Land Services, who said her firm will be doing the plan. I can have it for the next meeting or the following one. They would have to do some topography work first. I can't guarantee a plan for next month, probably for the November meeting.

Chair Vitali said it's very important that this proposed plan would go to the Environmental Planner. Stay in contact with Erin O'Hare and come back next month.

Ms. Page agreed.

This item was tabled to the October 7<sup>th</sup> meeting.

**5. #A20-7.2 / 59 Wooding Road – Charles Hemstock – (in-ground pool, patio surround & fencing) – approved administratively 7/24/20**

**6. #A20-7.4 / 809 North Main Street Extension – David T. Warren Family Trust – (storage garage & stormwater management facility)**

Appearing were Rosalind Page, P.L.S., of Winterbourne Land Services; Michael Ott, P.E., L.S., of Summerhill Civil Engineers, and David MacDonald for the Applicant.

Ms. Page spoke about the stormwater management design in this request to construct a 1,920 square-foot storage garage for funeral home vehicles and 2,800 square feet of pavement within 50 feet of the existing stormwater swale. The property is bounded by Walmart, North Main Street Extension, a commercial office building, and other buildings here. Existing are the funeral home, the entrance from the street, and parking lot. The existing stormwater swale here was installed in 1988 with three dry wells originally for Cousins Restaurant (indicated). A catch basin here and yard drain take some of this grassed area and the upper driveway. This dry well here takes roof water; there's a dry well here with an interconnecting pipe, and a high-level overflow to this dry well system. Then there was high-level overflow to this swale with a 15-inch discharge pipe. In 1988, this swale was flagged as an inland wetland due to the stormwater discharge point from the old Revere Corp. parking lot. So in 1988 there was a headwall here that took that discharge. Then K-Mart was built in the mid-1990s, removed this headwall, and paved to within 5 feet of the property line and completely changed the drainage characteristics. Now it's Walmart. As in Soils Scientist David Lord's report, due to the removal of this area, this is no longer wetlands soil. So we propose to enlarge the existing swale highlighted in green. We worked with the Town Engineer to come up with this design. We'd expand it to this larger area in order to accommodate discharge from our new garage site and to improve stormwater quality. This is the perimeter of this project. We did cut trees down in here, regrade, and put in clean fill in anticipation of the approval. I'd correct from Ms. O'Hare's report: She said there was additional filling in July and August, but there's been no subsequent filling since the applicant did the earlier work areas this year.

Mr. Ott said they did two things regarding stormwater management as per the Town Engineer. We looked at the required water quality volume because the new impervious area we're proposing is 5,045 square feet. So we addressed the new water quality volume from that area. And we excavated a similar basin below at the west end of the site and made it as large and deep as we could. That will provide 1,020 cubic feet of basin, three times the prior amount and more than the prior 420 cubic feet. Those computations were submitted to the Town Engineer. This was done by excavating below that basin on the west end of the site, so the stormwater events will carry into the basin. The Town Engineer asked us to calculate the two-year rain event and the 100-year event to make sure of that. With our increased water storage area—increased to 2½ times what is there today--there's a 15" diameter pipe out there today, so we'll modify it so it's an 18" pipe. So we made computations, and we added to water quality and reduced discharge.

Chair Vitali said you're on a very sandy plain in that whole area. This water storage at the exit of the watercourse will handle the whole parking lot?

Ms. O'Hare said, to clarify, you said you revised the plan and did calculations--was that done in the middle of July?

Mr. Ott said we worked closely with Allison Kapushinski and sent her a summary letter on August 28. She was going to write you a memo.

Ms. O'Hare asked if they have another revised plan. The Commission does have the memo handed out tonight from Town Engineer Allison Kapushinski. Did you see that?

Mr. Ott said Ms. Page just gave it to him. But Ms. Kapushinsky had asked for an analysis of the rates of discharge analysis for two-year through 100-year rain events. By making it as large as we could, we reduced the peak discharge well below the existing conditions and provided increased storage area by 1½ times. The outlet diameter was 15", and we reduced it to a 12" diameter. Computations were submitted to Ms. Kapushinski.

Chair Vitali said it's interesting that they are storing more water here. The brook coming down from North Main Street crosses by the pool, comes here, and proceeds to PNA Park and to the Quinnipiac.

Mr. Ott said the changes the Town Engineer is waiting for are: 1) The discharge analysis, which we provided. 2) Four dry wells are existing, so we cleared that up with her. 3) In my cover letter to her, we state that we'll replace the very last storm sewer with an 18-inch pipe; and 4) A list of the door locations on the building.

Ms. O'Hare said she looked at the existing dry wells--aren't they really yard drains?

Mr. Ott said the four dry well structures were put in when it was Cousins Restaurant. Our field crew tried to estimate and says it's about 900-gallon dry wells, about 120 cubic feet of storage. So we ignored them, being conservative.

Mr. MacDonald said the parking lot didn't change when it became the funeral home.

Ms. O'Hare said we have David Lord's first report, and David Lord's second report was handed out today. You both refer to "the existing water-quality basin." Can you explain that?

Mr. Ott said on the site there is an existing depression, an excavated area, possibly from the Walmart parking lot construction. I haven't called that a water quality basin, just a depression. The proposed basin that we've created, it provides water quality benefits because we excavated below its outlet to provide storage volume for frequent smaller rainwater events, to let it penetrate into the soil.

Chair Vitali asked if the basin bottom is to be grassed?

Mr. Ott said, Yes, it's pretty grown up. It's small and would be easy to cut.

Ms. O'Hare said the confusion about the filling on photographs—the initial filling was gray and now it's orangey gravel.

Mr. Ott said twenty-four hours a day surveillance shows nothing is happening; maybe just some rain came, and the color changed.

Ms. O'Hare said O.K. As to the wetlands in 1988 and with this year's projects it wound up getting filled—why isn't it a wetland today? Prior, Mr. Indorf wrote it was Walpole alluvial soils. The elevation was 73 and now it's 85. The floodplain was excessively drained.

Ms. Page said that's not a change in the elevation. My plan is based on an assumed datum. My elevation plan starts at 100 feet at North Main Street Extension. It's not the same as the 1988 plans, so there isn't an assumed 10-foot fill.

Ms. O'Hare asked, do you know where the groundwater table usually is?

Mr. Ott said David Lord looked at the site and vicinity. He stated the groundwater level should be far enough below the bottom of the basin. It's sand.

Ms. O'Hare said but Frank Indorf put in his report that the groundwater table is at 8" down. Maybe the level was such 40 years ago, and so much development has gone on.

Chair Vitali said the brook nearby is a lot more than 8" below this site.

Commissioner Kern asked whether Ms. Page had measured inside a dry well?

Ms. Page said they did, and she looked inside. There was no water in any of the dry wells.

Commissioner Kern said years ago he had probed to 18 feet before the red rock. I think it's because the sand is so clean, everything goes right into the ground.

Ms. O'Hare said that in her photos today that corner has a purplish look. This summer they filled what was supposed to be a storm basin, and it has purple gravel on the top. Will it be dug out?

Ms. Page said there will be some gravel at the extreme north end. Some fill we placed will have to be pulled out of there. The Applicant is aware that this basin design is evolving.

Ms. O'Hare asked if the Applicant is going to submit a revised plan and revised calculations.

Mr. Ott said not revised calculations. We submitted the calculations to the Town Engineer. I think Ms. Page will show the downstream pipe to be replaced, and we will prepare drawings on the building doors and that the most downstream pipe should be replaced.

Ms. Page said the Town Engineer required the 15" pipe on the last existing dry well be modified to have an 18" pipe there. And the 15" outlet here will have a 12-inch face put on it. So our final plan will show that and the three overhead doors on the south side and two person doors on the north side.

Ms. O'Hare asked where the dirt is going to be stockpiled for that?

Ms. Page said any material that we take out here will be taken off site. It will be removed.

Ms. O'Hare said and so we could have your new calculations?

Mr. MacDonald said no, we submitted the calculations to the Town Engineer, and she has approved them. I'd be glad to get a copy to you.

Ms. O'Hare said, Yes, please.

Chair Vitali called for a Motion on the Significance of the activity.



**MS. PHILLIPS:** **MOTION THAT APPLICATION #A20-7.4 / 809 NORTH MAIN STREET EXTENSION BY DAVID T. WARREN FAMILY TRUST FOR STORAGE GARAGE & STORM-WATER MANAGEMENT FACILITY IS DETERMINED NOT A SIGNIFICANT ACTIVITY.**

**MR. SIMON:** **SECOND**

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

**MS. PHILLIPS:** **MOTION THAT APPLICATION #A20-7.4 / 809 NORTH MAIN STREET EXTENSION, DAVID T. WARREN FAMILY TRUST, FOR STORAGE GARAGE & STORMWATER MANAGEMENT FACILITY BE APPROVED, TO INCLUDE A FINAL PLAN THAT WILL INCORPORATE ALL OF THE REQUIREMENTS OF THE TOWN ENGINEER AND A STORMWATER MANAGEMENT MAINTENANCE PLAN.**

**MR. SIMON:** **SECOND**

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

Commissioner Kern wanted to know if that outlet pipe on that last catch basin is producing water.

Ms. Page said she has not seen any water coming out.

The Commission took a break at 8:32 p.m. Chair Vitali called the Commission back into session at 8:38 p.m.

**4. #A20-7.1 / 5 & 21 Toelles Road & Wharton Brook – Pfizer Inc. – (soil remediation project)**

Appearing were Lucas Hellerich, P.E., Project Engineer and Licensed Environmental Engineer, and Kyle Apigian, Technical Manager and Ecologist experienced in remediation and Environmental Engineer, from Woodard & Curran, and Richard Snarski, Soils Scientist, New England Environmental Services, Inc.

Mr. Hellerich said this project's purpose is that the Connecticut DEEP is requiring that the wetlands soils here are required to be remediated because of the presence of nickel, a heavy metal, in the topsoil. So we tried to map the wetlands and to coordinate with that agency. These are temporary impacts and they will be restored. We're trying to improve the soil quality. We have a revised plan and there's a number of invasive species that will be removed and the removed soil will be replaced with clean fill. Connecticut State DEEP orders include that we're going through the public notice that's required. We made a preapplication with the Army Corps of Engineers, and it was determined that this comes under a General Permit category. Also, Army Corps of Engineers is requiring a very rigorous monitoring plan following the restoration phase. Kyle will speak to that. Also, the U.S. EPA has been involved. They're reviewing the woodland restoration planning efforts, and with Wallingford Planning and Zoning also. Following a substantive process hearing, the client, Pfizer, is responsible for the

remediation, restoration and subsequent monitoring. So they'll make sure that this project is implemented properly for Ametek at 21 and 5 Toelles Road, also owned by Ametek.

Mr. Hellerich showed a drawing: This is the active manufacturing portion. Toelles Road is on the north; the Amtrak line is on the east. Wharton Brook runs from the right to the left. The yellow-shaded area represents the U.R.A. (Upland Review Area); the green represents the targeted wetland; Wharton Brook is shown in blue. To orient: In the center of the excavation, this is a two-foot excavation depth, which we'll describe. On either side it's six inches depth, on the east and the west portions, sufficient to meet the remediation requirements. There are environmental investigations, soil samples done to establish where exactly the nickel was, and ecological risk assessment required by the CT DEEP. DEEP determined it was needed to be remediated to certain criteria. So it's needed to excavate that soil. Once excavated, we'll backfill to existing grades and do the wetlands work.

In December 2019, we approached Ms. O'Hare and Planning and Zoning to have a discussion. We elected to conduct some additional soil samples in the wetlands. We thought there would be a two-foot excavation among and by the trees. Our sampling indicated where the nickel really was, and we found the six-inch and two-foot levels. Sampling results came back in December 2019, and we approached Ms. O'Hare and Planning and Zoning to discuss the watershed. During that meeting there were some concerns raised about removing trees, flooding, and erosion. So we took our soil samples and we made a revised plan to try and mitigate the impact to the wetland. We'd retain as many trees as we could in the wetland through that remediation process and to retain as much roots within the drip line to save large trees. We brought that information to CTDEEP, and they approved that plan to minimize tree removal and help to put that wetland in a position where in a year it would be restored.

We would first put project office trailers and equipment outside of the wetlands. Then we'd identify trees we want to be saved (we inventoried them already); then install erosion and sedimentation controls around the work area, remove smaller trees for access; use anti-tracking pads temporarily on the upland to access the wetlands; and to see the stormwater outfall that has a riprap swale and a plunge pool. Because we'd be excavating this area and with silt fence around it, we would temporarily reroute the stormwater to an identical structure outside of the excavation area by connecting a pipe to an 18" outfall and run that stormwater discharge on the outside of area with S&E controls during the project; and then when the outfall area is restored, that outfall area would be repositioned as it was. With the proximity of Wharton Brook, there's to be a double row of S&E controls along Wharton Brook where we'd have excavating, fairly especially close to the brook. So we'd have water diversion structures there such as a porta dam—where, if the brook would rise, that water would not rush into our project. We'd prioritize the work from closest to the brook in cells: to excavate, backfill, and prioritizing the backfill around those large trees to help preserve them; and then pull that soil back up towards the Upland Review Area. And we have staging areas for that soil before it gets loaded into trucks for off-site disposal. There it's securely staged with S&E controls around with plastic sheeting over those piles when they're not being actively filled or it's not being loaded into trucks. So the idea here is we're moving from the brook back up towards the URA to give the portion closest to the brook time to stabilize. Following excavation and backfill, that stormwater outfall would be put back in its original position. The 6" areas will be backfilled with organic-rich soil to emulate what's in the soil right now. And in the two-foot area where the trees are, we've identified to put 12" to 18" down of sandy-gravelly material, and then top 10" to 12" will be backfilled with organic rich soil to emulate the wetland. Kyle will talk about the Wetland Restoration and the Tree Protection plans.

Mr. Apigian stated we will install a long-term Wetland Restoration Plan developed with three principles: 1) To restore in-kind. Bring in similar soils—recreate similar habitat over the long term and raise elevations to similar to the existing conditions and to avoid a net loss of flood storage capacity on the

site. 2) To focus on native plantings and to reduce invasive species on the site. We have an Invasive Species Control Plan, and many species being planted are already in the area. 3) A long-term Monitoring and Maintenance program over up to 10 years with the goal of restoring similar habitat conditions and values to wetlands. The restoration plan was made with Compensatory Mitigation guidance from the Army Corps of Engineers District. We will plant a density of greater than 400 trees per acre and a tree and shrub density of greater than 600 per acre—consistent with site conditions; plus adding woody debris for wildlife habitat, nesting and roosting areas to 4% of the surface area as a series of brush piles. And finally a monitoring plan twice per growing season--for up to 10 years, with those reports submitted to the ACE for review and comment.

The initial seeding and stabilization of the cells where excavation takes place will happen immediately after excavation—so excavate, backfill, seed the areas and install a mid-range biodegradable erosion control blanket over the disturbed areas until all the area is stabilized. No polypropylene netting to cause wildlife entrapment. Next would be to plant at a seasonably appropriate time. We'd plant in the spring to get established and in late summer/fall. Once the planting is in place the contractor would have warranty monitoring and maintenance responsibilities for as long as 10 years. Pfizer would be responsible for the monitoring plan and maintaining to established criteria.

To maintain the trees on the site, we identified all the 15" trees for larger present for retention; this will help maintain some of the habitat value and some of the stratification in the forest layer and provide a jumpstart on restoration, as well as soil stabilization and shade. We'd establish perimeter areas around the larger trees and not have heavy equipment around those large trees. There would be scraping, hand removal, light equipment to remove accessible soils up to 6 inches at/between the tree roots and a vac truck to suck up those loosened soils; and then the area would be immediately backfilled and stabilized with erosion control blankets and seeded as quickly as possible. We've had similar work at another site with excavation plans and trees surviving at 5-year monitoring. So there's a good chance for the large trees to survive and be monitored after the soils are removed.

Mr. Hellerich said we'd like going to begin in the fall with a couple of months activity. Excavation of approximately 3,200 to 3,300 cubic yards, stabilization, staging, disposal and backfilling—performing that in cells--that's several weeks.

On the comments, so far we have two sets of comments from August 6 and August 21 from Erin O'Hare; also, a site visit was August 11 with Ms. O'Hare and Tom Talbot. We addressed all the comments and we provided a response to comments on August 27. We also revised our drawings for the site and incorporated all the changes that Ms. O'Hare requested into that set. We also prepared a color-shaded plan (similar to what you see there) and gave a soils report attached to meet requests, and we made another contingency plan focused on flooding erosion mitigation measures, which includes pre-construction activities, during construction, and post-construction activities. To conclude: This is a remediation project required by CT DEEP to remove Nickel-impacted soil from the wetlands. This project will improve the quality of the land by removing that nickel, removing invasive species, and restoring the soil.

Chair Vitali said, Erin, you've spent time on this. What issues have you worked on?

Ms. O'Hare quoted from the Environmental Planner's report dated August 28: "This office has begun communication with the DEEP Remediation contact person and the DEEP Wetlands personnel . . . and there will be follow-up inquiries to more fully understand the permitting coordination involved (DEEP, Army Corps, IWWC, PZC and EPA [added]) and the benefits and losses entailed in the proposed removal of a Floodplain Forest – a designated CT Critical Habitat, the current "ecological risk" posed by

the historic contamination [that's mostly nickel], the likelihood of successfully re-creating a viable, fully functional Floodplain Forest; and the risks involved in such an excavation project in the Floodway." So it's a 2.2-acre project, half of which is located in the Floodway—the whole thing is in the floodplain. That sums up everything I'm looking at. In going over this presentation, I heard a lot about Army Corps and EPA interested the restoration, but what I didn't hear was which agency is looking at the Floodway aspect. Is there any agency who's focusing on that? Remediation is not an uncommon activity. Usually it's in the upland, and when we've had it before us it's usually very small. Here it's 1.1 acres in the Floodway—that's a lot of habitat. It's sloping land, and we went out there. The floodplain forest—roots of those trees hold that very fine sandy soil when a flood comes through, and also it functions to store the floodwater. So I'm very interested in what Floodway agencies are involved.

Mr. Apigian showed where the Floodway is on the map. These two blue lines are 100-year and 500-year flood lines. This pink-purple line that bisects the area is the Floodway Erin referred to. About the slopes of the soils, the upland area has a slope to it; and above the Floodway line there is some slope transitioning to the Floodway; and the Floodway has a much more gradual slope. As to which agency is reviewing the flooding aspects of the work, the CT DEEP is reviewing the remediation; US EPA and ACE are over the restoration plan, and we also have to talk about the project restoration and flooding issues, erosion issues. So we provide them with very similar information that we provided you for flooding/mitigation measures. So Army Corps looks at that in their review.

Ms. O'Hare said she is asking because we got a Flood Contingency Plan last Thursday; but before that it seems like nobody was looking at it or addressing it, before I asked you.

Mr. Hellerich said that information was included with the Army Corps application, and we provided it to the Commission as well.

Mr. Apigian said the Army Corps is reviewing it right now.

Ms. O'Hare asked when do you expect to get the permits?

Mr. Apigian said the Army Corps of Engineers may respond in September or October. And the Planning and Zoning permit application would follow this Commission's process.

Ms. O'Hare asked when does CT DEEP issue a remediation permit?

Mr. Apigian said that DEEP does not issue a permit for the remediation. We submitted a Remedial Action Plan and met with them earlier, and they concurred with the remediation approach. And we're in a public notice period now. Once that public notice finishes, that meets our obligation for that Remedial Action Plan. O'Hare asked when does the public notice period end?

Mr. Apigian said he believes it's in the first half or early October. I'd get back to you on the exact date.

Ms. O'Hare said she knows they want to get going. The nickel was laid down over 33 years ago. The property was sold 33 years ago. So what is the rush now?

Mr. Apigian said we have the project defined and the ecological risk assessments. Typically, they take a long time. We have enough information now to proceed with the project, so that's why we'd like to proceed with this project.

Chair Vitali asked Ms. O'Hare why the Commission shouldn't vote on this tonight?

Ms. O'Hare said she wrote in her report that the Commission should vote on this tonight as a Significant Impact Activity as in my report. Your definition of "Significant Activity" sets out all the criteria of a Significant Activity and it meets those; and then, if you vote, the Commission would hold a public hearing on October 7<sup>th</sup>.

Chair Vitali asked, so I heard it would be about taking fill out and putting fill in. Why is it a Significant Activity as an impact to the wetlands?

Ms. O'Hare said you're drastically altering a wetlands that's 2.2 acres. You're taking 2' of the dirt and removing most of the plants except for the big trees. You're bypassing the stormwater system and putting it somewhere else and putting riprap down temporarily. Then at the end of the project taking the riprap out, etc., and you're attempting to re-create a wetland. This is a laborious project with the excavation, the planting, and the monitoring. I would like to schedule a site walk. You're walking in shade, dappled sun, fern glades and vines. They'll plant it and put it back, but once they open it up it's an area that's open to sunlight, and it's subject to all the invasives that are blowing through the Town—Japanese knotweed, mugwort, etc. So this will involve vigilant monitoring and probably chemical eradication. So it's a big impact to that 2.2-acre wetland, plus the flood impact. When Tom Talbot, Acting Town Planner, and I walked out there with Lucas on August 11<sup>th</sup>, we had to walk around the too-wet areas, and the groundwater was at the surface on August 11 and this was drought. I was thinking, "Where is the groundwater in December or April?" This a very wet site. It seeps out under the paved area of Ametek. So they're going to be operating in groundwater, especially if it's not at the surface, going down 2'. It's a sloppy site, arduous, cell by cell. If we have a hurricane, tornado or microburst, there's no question there would be storm debris in the remediation or post excavation. So there's possible significant impact with potential for significant erosion and transport downstream in Wharton Brook.

Chair Vitali said before, a lot of area was excavated along Toelles Road. Was this 2.2-acre area ever excavated?

Mr. Apigian said it was not—it doesn't look like it. About the groundwater levels, on page 3-1 in the Soils Report: Borings from last December, there's 36 different shallow-soil borings that we did throughout that wetland last December (2019). Within the 6" excavation area on the western side of the remediation area, groundwater was found increasing at from 6" to 2'. So at 6" we shouldn't encounter groundwater based on that data. In four of nine locations, groundwater was found at 6", primarily in the southwestern portion near Wharton Brook. In the eastern other 6" area, groundwater was found from 1' to 2'—at 1' in three of the ten locations. In the 2' deep in the central area, groundwater was encountered at depths of 6" to 2'. It was at 6" at four of twelve locations in the southern one-third of that 2' excavation area. So to Erin O'Hare's point, we believe it's in the southern 2' excavation area and also in the 6" area closest to Wharton Brook.

Chair Vitali said this is probably our largest excavation activity in a wetland. It's 2.2 acres?

Mr. Apigian said Correct.

Chair Vitali said it sounds like a simple project, but some is under your control and some is not under your control. Usually floodplains don't move or erode out like a ravine. A million years ago that came up. But I think Erin O'Hare would like us to have a public hearing on this. Do you have any objection?

Mr. Apigian said we'd like to proceed with the CT DEEP. This is why we prepared a contingency plan. I think it's up to you.

Chair Vitali said Ms. O'Hare thinks the impact to the wetlands area is huge.

Ms. O'Hare said, Yes, there's a host of concerns.

Chair Vitali asked her, are you prepared to provide that host of concerns? If we go through with a public hearing, all our information is coming from you.

Ms. O'Hare said it's the process. They responded to my 32 comments and then they responded to 37 comments of mine. They answered a lot of questions, some of which they hadn't thought of before or hadn't codified. I realize that comments on the local level probably are very different from comments from Boston on the federal level.

Chair Vitali asked, what would be the primary goal as a Commission? Whatever we decide, they're still going to do significant remediation.

Ms. O'Hare said the goal is to remediate in the most efficient/sufficient way possible, to make the best outcome possible, so it's going to be a better project, if it goes forward. The biggest thing for me and Town staff is the Floodway aspect. We've never had a project like this in the Floodway. So we're looking for outside expertise on this because in-house needs assistance.

Chair Vitali said this five-member Commission isn't qualified to say what they need to do to improve the plan. You and I have talked for months on this. Is this something the Applicant can deal with Wallingford staff? Or do we go to a public hearing, or do you want a third-party review person?

Ms. O'Hare said, Yes, for the engineering flood aspect—it would aid staff for concerns to make it a better project. Looking at the Floodway aspect, not the turtles or the trees. But looking at erosion control as it relates to the river; looking at water handling along the river; looking at coffer dams and how long they should stay in place; and the river effects downstream.

Chair Vitali asked, if we have a public hearing on this, would this person have information in 30 days?

Ms. O'Hare said they would have to. We would have to act tonight to direct staff to get a professional and get it through. I'd like to see it presented in October. So I'd like to see this declared a Significant Impact Activity tonight; to set site walk out there, with the Applicant instructed to get a path through the forest; and to direct me as staff to pursue an engineering proposal for consultancy.

Chair Vitali said, I'll ask the Commission. On the remediation of soil--I don't know how you're going to dig around all these trees. How do you feel about Significant Activity, which drives into a public hearing?

Commissioner Kern asked, Can we take his plan to DEEP and have them comment on the Floodway and answer your concerns? Ms. O'Hare has been told that DEEP, other than their Remediation Division, would not review it. Have you been in touch with them?

Mr. Hellerich said, Yes, not typically—not for a project like this.

Mr. Apigian said we have been in touch with those folks, and they have delegated to Army Corps.

Commissioner Kern was not in favor of a public hearing because it's information-gathering.

Commissioner McKeen agreed that the public is probably not knowledgeable on this. Did you test for the nickel?

Mr. Apigian said they did.

Ms. O'Hare said, so are we going to be privy to ACE's comments by October 7?

Mr. Apigian said all we know is it's currently under review.

Chair Vitali read from the letter to Ms. O'Hare, received August 28<sup>th</sup> from DEEP. The DEEP states: "I advise Inland Wetland agencies that, if a project is occurring as a result of a DEEP enforcement order, do not frustrate the process or cause undue delays." That's an interesting statement. I wonder what they mean.

Ms. O'Hare said, Lucas, is the DEEP going to require a bond on this project?

Mr. Hellerich said, No, not to our knowledge.

Ms. O'Hare asked, is the Army Corps of Engineers or anyone going to require a bond?

Mr. Apigian said he did not know.

Commissioner Kern said this isn't a violation. It's a remediation because of the liability of how much nickel is left at this time. Did you test for the nickel?

Mr. Apigian said they tested for the nickel.

Mr. Hellerich said it's required by DEEP to go in and eliminate the ecological risk from the nickel.

Commissioner Kern said, in a public hearing, he did not know what information we would gain.

Commissioner McKeen said she did not know what we would get from a public hearing—because the public is probably even more in the dark than we are.

Commissioner Phillips asked to table in order to get information from the Army Corps of Engineers.

Chair Vitali said, if we get a third-party review, I think that would benefit us.

Commissioner Simon said, if it's required, we have to do it. If it's not required, we won't.

Chair Vitali said the public hearing will not drive the decision here.

Commissioner Simon said the more input you get, the better you are informed.

Chair Vitali said I agree. I think we may get that through a third-party review, because I don't think we have all the knowledge necessary to ask the questions and run a good public hearing.

Commissioner Passaretti said she did not want to do the public hearing. This jumped off the page about not to cause undue delays.

Chair Vitali asked Ms. O'Hare, "Do you have a possible person for third-party review?"

Ms. O'Hare said she knows of someone who does review of remediation projects and flood-control projects, and they are willing to look at this.

Chair Vitali said then we will table this until next month. He asked for a consensus in favor or not in favor of getting someone to perform a third-party review.

"Yes" responses were unanimous from Commissioners Simon, Phillips, Kern, McKeen, and Chair Vitali.

Chair Vitali said that person should be in Ms. O'Hare's office every day and report back by October 7<sup>th</sup>..

Commissioner Kern asked, of the 37 questions Ms. O'Hare has, could that person answer the questions in writing?

Chair Vitali asked Mr. Hellerich for details of similar projects they have done and to show recommendations from similar municipalities.

Mr. Hellerich said we have gotten comments from other towns about similar projects.

Chair Vitali said, if it weren't for Ms. O'Hare, we wouldn't be this far down the road. It's like a management issue.

Ms. O'Hare asked, do you want to set a site walk? It should take two hours.

The Commissioners' consensus was to do a site walk at the Toelles Road properties on Wednesday, September 16<sup>th</sup>. Ms. O'Hare will arrange it.

Ms. O'Hare said this is a Floodplain Forest, a particular habitat. It's not what we usually work on. You're looking at the lay of the land the way it is, how lush the growth is, etc.

Chair Vitali set a Special Meeting site investigation for 5:00 p.m. on September 16<sup>th</sup> and directed Ms. O'Hare to send out a notice of where to meet.

Mr. Hellerich said he will attend. He will check with the company. The company has a security gate to enter and someone to meet them and then go with them down to enter the wetland.

Chair Vitali said the group should meet at the parking lot in front of the gate at 5:00 p.m. The rain date should be Thursday, September 17<sup>th</sup>, at 5:00 p.m. there.

Ms. O'Hare said this will be a Special Meeting, and she will send out a notice.

This item was tabled to the October 7, 2020, agenda.

**E. NEW BUSINESS – None.**



## F. RECEIPT OF NEW APPLICATIONS

Ms. O'Hare said these applications were approved administratively:

1. **#A20-7.5 / 403 North Elm Street – Charles Sharpe – (yard filling & tree removal) – Request for administrative approval – approved 8/28/20**
2. **#A20-7.6 / 9 Harrison Road – Christopher Cerrito – (in-ground pool, patio, & fence installations) - Request for administrative approval – approved 8/28/20**
4. **#A20-8.1 / 23 Country Way – Patricia Dellaripa – (after-the-fact wetland tree removal) – (approved administratively 8/7/20)**

Ms. O'Hare said these new applications were received and will appear on the October 7<sup>th</sup> agenda:

3. **#A20-7.7 / 79 Kondracki Lane – Markus Briles – (after-the-fact yard & stream bank disturbance, and proposed fence installation & plantings)**
5. **#A20-8.2 / 1193 Durham Road – David A. Chester – (shed)**

## 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 the Law Department is working on this. This Notice of Violation remains in place.

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

Appearing were owner Mr. Maresh Komal, Attorney Norman Fishbein and David Carson, P.E., of OCC Group.

Mr. Carson had made a presentation board because last discussion was on where the access easement crosses this property. The accessway easement is shown in red and it was from the curb of the existing car wash all the way to the easterly property line. The Applicant's attorney has been successful in getting that easement released so it no longer exists. Second, there never was, or is, a roadway across this property. It is not accessible from either the property to the north or the south. The northern property has concrete landscape material bins across the top of the slope; the southern property has a 36-inch oak tree here and smaller trees along their southerly property line. Regarding the plateau at the top of the slope, we researched the Existing Conditions survey that we did. There were two houses, a massive garage structure, and a fenced-in lawn. The green line represents the 50-foot wetland buffer, not changed from 2006. What's significant on this plan is the top of the slope at about 17 feet at this corner and 20 feet here and widening north and south. This was the Site Grading plan for the car wash from 2006. The green line represents the 50-foot buffer and the slope in the same location. There was no disturbance past the back of the existing garage. The curb line for the car wash exists today in the same relationship to the garage. The only disturbance in the buffer was the riprap outlet swale from the underground stormwater detention. Today the top of the slope, the black rock area, represents the limits of the illegally placed rock fill. The light brown represents gravel that extended the plateau, just a sliver. We sent a surveyor out. If you imagine a sixteen-wheeler coming in and dropping fill, it was dumped in the center and it spread out.

Today as part of our mitigation plan, we proposed excavating around the two larger trees at the top of the hill where the greatest material is. We would dig out by hand and take some rock out to make a bowl there. These smaller trees down at the bottom have 6" of stone around them. Also, in our revised plan we're proposing to install a 6-foot-high wood fence, not shrubs or guiderail—in line with the north and south properties, hoping to eliminate dumping. I prepared our original survey, and I got a summary of this site. This area behind the garage appears that it had been properly excavated many years ago. There actually were stumps dumped into it. I think Commissioner Kern commented about rock fill around the trees—I don't pretend to be a tree expert, but I do have 30 years of experience on rocks around trees. What the rock does is opens it up to breathe and receive water. There is no fill in the wetland. There's more gravel at the top of the slope. This area is totally stable. There's no evidence of any impact on either the trees or the wetland, and we go back to our original report. Excavation of this fill would definitely cause tremendous more environmental impact—erosion, etc.—than leaving the fill in place. It should never have been done. But a year ago, I reviewed a re-use proposal for this site by an architect, and there would be no change to the pavement or drainage system if it were to be other than a car wash. So taking the fill out does not do anything other than the probability of erosion, sediment and additional environmental problems. It's key that this accessway has been extinguished.

Commissioner Kern said, last time, did we say we wanted to have the fill out?

Mr. Carson said, as I recall the Commission was about to make a straw vote on to excavate or not excavate. You seemed to agree with me that excavating would cause more problems, but the straw vote of the Commission was that the fill should come out. I felt there was a misunderstanding, and I made this drawing to explain it.

Attorney Fishbein thought that Chair Vitali was concerned about the Right-of-Way. I was not notified that there was any formal decision last time. So I got that additional information for tonight.

Chair Vitali asked for Commissioners' comments, and there were none.

Ms. O'Hare said the Commission has my previous Environmental Planner's Report from May 28, 2020, from when I looked to see the fill out there, that I would like to see the violation fill taken out. Half of the fill is in the 100-year floodplain. I hope that you'd vote to have all this fill taken out. That's my position.

Attorney Fishbein said that taking it out would make it unstable.

Ms. O'Hare asked, are we allowed to fill floodplains? You're operating under the idea that you're special and you can fill a floodplain?

Attorney Fishbein said things have been done by others. But taking it out would make it more unstable than leaving it there.

Ms. O'Hare said the lower-half floodplain filling has to come out per flood regulations. So are we arguing about the upper half when the lower half has to come out? Nobody can fill a floodplain unless they provide compensatory flood storage.

Mr. Carson said we were advised, I understand, by the Town Attorney to come to this Commission before Planning and Zoning. We did an analysis of the floodplain for Planning and Zoning, which showed 50 cubic yards of material in the floodplain. Our analysis showed that the fill was zero impact on the massive cross-section. I'd request to make it part of the record (analysis submitted).

Attorney Fishbein said, actually, it was me who spoke with Planning and Zoning—not with the Town Attorney—who said we had to come to you first.

Chair Vitali said we're all agreeing that this should never have gotten there. You believe 50 yards went into the floodplain?

Mr. Carson said it's 170 cubic yards total, with 50 cubic yards in the floodplain. Our analysis shows zero impact from that 50 yards. So the flood elevation was revised about a year ago for that area, to actually lower it—common throughout Connecticut. The lower flood elevation eliminated over 6,000 cubic yards of storage. It's 50 yards here, it's like a pebble in a pond. So my understanding is that it would make no difference with Planning Department. We'd only proceed with them if your Commission voted to have us take it out.

Ms. O'Hare asked, doesn't that make you in zoning noncompliance? You have a Zoning Violation issued by the Planning Department.

Mr. Carson said, and we have a Wetlands Violation. We're doing them in order.

Chair Vitali asked do we know who dumped this in here and why?

Mr. Kamal said the person next door, True Blue, their guy did it. The north side dumped it.

Ms. Phillips said you already said there's a retaining wall. There's no access from that side, so he couldn't--.

Attorney Fishbein said now there is. There's barriers now.

Mr. Carson said the barriers could have been moved in order to dump.

Attorney Fishbein said but now the Right-Of-Way has been released by the owner of that property.

Chair Vitali said, regardless of the Right-Of-Way, if this gentleman next door dumped the fill there, he already had a roadway. He didn't have to go there.

Mr. Carson said that back when the landscape materials owner leased there, that owner hoped someday to connect to own property on the side street.

Chair Vitali asked, Northfield Road?

Mr. Carson said Yes. I know this because I had a meeting with them years ago, and I advised him not to do that.

Chair Vitali said, if this fill has to come out, is the neighbor who put it in there going to dig it out?

Attorney Fishbein said I guess we'd have to bring an action against the neighbor.

Chair Vitali said the neighbor has the equipment to do it. It doesn't belong there. It's not going to do harm if it's taken out—less harm if it stays there. What elevation is that to bring a bucket out?

Mr. Carson said it would be at least 20 to 22 feet in elevation, top to bottom.

Chair Vitali said if you take up 20 to 22 feet, you'll be below in the wetlands doing it.

Commissioner Kern said we had the same issue in the last application, with Erin concerned about the floodplain in the soils. I think, if you get heavy rains and you dig the fill out, all the sand is going to run into that area onto the floodplain and level it off.

Chair Vitali said this is going to lead to fines. This Commission has stayed away from fines. I'd like a Motion on this application for: to dig around the trees; to remove the fill; or to leave the fill but to dig more around the trees.

Ms. O'Hare said this is not an application—it's a remediation of a violation.

**MS. PHILLIPS: MOTION THAT THE NOTICE OF VIOLATION, 950 SOUTH COLONY ROAD – 1NRSJ, LLC – CARWASH FACILITY - (UNPERMITTED FILLING) TO HAVE SOME REMEDIATION WHICH WOULD INVOLVE MORE DIGGING AROUND THE ROOTS OF THE TREES SO THAT THEY ARE MORE EXPOSED AND TO REMOVE THE FILL IN THE FLOODPLAIN.**

**MR. SIMON: SECOND**

In discussion, Chair Vitali said that he sees the fill that has got to come out of the wetland is at 20 feet in the bottom, which is a real problem. Excavating at the bottom is a real project.

**VOTE: MS. MCKEEN – NO; MR. SIMON – NO; MR. KERN – NO; CHAIR VITALI – NO; MS. PHILLIPS – NO**

This motion failed.

**MR. KERN: MOTION THAT THE NOTICE OF VIOLATION AT 950 SOUTH COLONY ROAD – 1NRSJ, LLC – CARWASH FACILITY – (UNPERMITTED FILLING) BE REMEDIATED BY TAKING MORE MATERIAL AROUND THE TREES AWAY, LEAVING THE FILL ON THE BANK IN ITS PRESENT STATE NOT TO BE DISTURBED, AND A FENCE TO BE PUT UP AS THE APPLICANT HAS VOLUNTEERED, AND WITH SOME WETLAND PLAQUES TO BE PUT IN PLACE ON THE BANK FOR FUTURE NOTIFICATION IN THE AREA FOR FUTURE DEVELOPMENT.**

Commissioner Kern said his reason for the Motion is, if we start digging out the bank, with heavy rains it will be a complete mess. Sandy soil has no bond to it.

**MS. PHILLIPS: SECOND**

Commissioner McKeen said we've made others do a lot worse for violations.

Ms. O'Hare said she was not certain that it's legal to allow fill in the floodplain, but that is a PZC matter.

Commissioner Kern said he believes it was dumped over a period of time. But I know the hill is going if we start pulling it out. I take into consideration what it's going to do to the environment.

Chair Vitali said it's a bank with a 20-foot drop.

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

**MR. SIMON – NO**

This motion passed by a vote of 4 Yes to 1 No.

Commissioner Kern said he thought of what other remediation would do to the environment.

**4. #A20-2.1 / 12 & 16 Northfield Road – over-clearing in floodplain wetlands & URA issue**

Ms. O'Hare said the Owner cannot get a demolition permit without connecting to the Town sewer line, and he has to remove the old septic system. She noted the IWWC plans approved did not depict an old septic system and the sewer connection was assumed.

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

Mr. Tyler Sweeney did not appear. Reference is made to the July 21, 2020 Minutes of the IWWC's Special Meeting at 6 Grieb Trail and to the Environmental Planner's Report dated August 31, 2020, both of which the Commissioners had received.

Ms. O'Hare said, as to the violation, Mr. Sweeney had put dirt fill into the woods on the slope and down to the skunk cabbage swamp, all of which is Town land. He has not removed that.

No action was taken tonight.

**5. 1103 Old Colony Road – NRWA, LLC**

Ms. O'Hare said this Notice of Violation has been referred to the Law Department.

**6. Notice of Violation – 1152 Durham Road – William Monaco – (unpermitted clearing & grading to stream near pond)**

Ms. O'Hare said the Violator put in erosion controls and the weeds grew in, protecting the area. This NOV was carried forward to the October 7<sup>th</sup> meeting.

**G. REPORTS & COMMUNICATIONS**

**1. Discussion of proposal to adopt fines for violations**

The Commissioners had received Ms. O'Hare's memo of August 25, 2020, regarding Fines – ideas for discussion. This is regulated by the CT General Statutes, so the Law Department is reviewing this issue. There was no discussion tonight. It will be on the October 7<sup>th</sup> agenda.

**I. ADJOURNMENT**

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

**MR. SIMON: SECOND**

**VOTE:      THIS MOTION WAS APPROVED UNANIMOUSLY IN A VOICE VOTE.**

The meeting was adjourned at 10:29 p.m.

**J. NEXT MEETING – October 7, 2020**

Respectfully submitted,

Kathleen L. Burns  
Recording Secretary