

**Inland Wetlands & Watercourses Commission  
Regular Meeting  
Wednesday, November 4, 2020, 7:00 p.m.  
Robert F. Parisi Council Chambers, 2<sup>nd</sup> Floor, Town Hall  
(MOVED TO ROOM 315 OF TOWN HALL)  
45 South Main Street  
Wallingford, CT 06492**

**MINUTES**

Chair James Vitali called this Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission to order at 7:00 p.m. Note: The posted location of this meeting was changed on November 4<sup>th</sup> from Council Chambers, which was in use, to Room 315 and room change notices were posted throughout the building.

**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 and Robert Simon, and Environmental Planner Erin O'Hare

**ABSENT:** Commissioner Michael Caruso and Alternate Jennifer Passaretti

**C. CONSIDERATION OF MINUTES**

**1. Regular Meeting, Oct. 7, 2020**

**MS. PHILLIPS:** **MOTION THAT THE MINUTES OF THE OCTOBER 7, 2020, REGULAR MEETING BE ACCEPTED AS SUBMITTED.**

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

**VOTE:** **MS. PHILLIPS – YES; MR. KERN – YES; MS. MCKEEN – YES; MR. SIMON – 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 Permittee is not ready for release of the bond.

**3. #A20-9.2 / 2 Northrup Industrial Park Road East & 1117 Northrup Road – 1070 North Farms Road, LLC – (industrial development)**

Ms. O'Hare said the Applicant has asked for this item to be tabled until the December Regular Meeting.

**4. #A20-10.1 / 131 Pond Hill Road – Church of the Resurrection – (building addition, fire lane, stormwater facilities)**

Ms. O'Hare said the Applicant has asked for this item to be tabled until December.

**5. #A20-10.2 / 1033 North Colony Road / Meetinghouse Brook – 7-Eleven, Inc. – (convenience store/gas station)**

Ms. O'Hare said the Applicant has asked for this item to be tabled until December.

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

Appearing was Project Engineer Lucas Hellerich of Woodard and Curran from Middletown.

Ms. O'Hare said that her Environmental Planner's Report of October 30, 2020, had gone out to the Applicant and the Commissioners with attached copies of: letter to the IWWC dated October 7<sup>th</sup> and received late in the IWWC meeting from Ms. Mary Mushinsky for River Advocates; Ms. O'Hare's October 9, 2020, memorandum to Janis Small, Corporation Counsel; and an e-mail letter from Ms. Adelheid Koepfer to Ms. O'Hare dated 10-26-2020 regarding phytoremediation. Peer Reviewer Milone & MacBroom had sent an initial letter to Ms. O'Hare. Ms. O'Hare handed out additional materials from Mr. Hellerich to the Commissioners tonight, being the documents cited below.

Ms. O'Hare stated the Peer Review work began around October 22<sup>nd</sup> and went they out in the field with the Applicant's representative this week. Ms. O'Hare's EPR said that she sent maps about flooding to the Army Corps of Engineers and EPA representatives. There is still time to act, as Governor Lamont's Executive Order #71 grants an extra 90 days to the decision time frame.

Mr. Hellerich summarized project activities since the October 7 meeting. Milone & MacBroom has been engaged for the Peer Review. He accompanied Mr. Matthew Sanford on a two-hour site walk on November 2<sup>nd</sup> through the eastern edge of the wetlands on Ametek land and up to Wharton Brook. We then walked back through the central portion through the floodplain, and then the central portion of the wetland where the invasive species are, and then the western wetland—toward Wharton Brook and beyond the project, west of it as well, to the Ulbrich crossing; then we came back toward the main facility and out of the wetlands. Earlier, we submitted a number of documents (cited below) to the Town e-mail address, which we also e-mailed to Mr. Sanford at Milone & MacBroom. These documents were in response to the Environmental Planner's Report of October 30 and the comments letter from Ms. O'Hare of November 2 to Mr. Hellerich.

Mr. Hellerich continued: There are recent documents that you have. First is a Response to Comments document, where we responded to all of the comments from October 2 and October 7—and the other documents addressed a lot of those. One of the comments relates to the backfill about bank-run gravel. In this Response to Comments we provided a specification for that material, calling it a fine sandy loam or silt material, to address the comment from before. We're using a mixture of 1" size and minus.

Chair Vitali said "gravel" usually is a stone of some size. The 1"-minus size could be called sand.

Mr. Hellerich said, also, we specified to -2 mm size. That should contain a certain array of commercial sands. Also, we specified a size at 0.5 mm of 50% of that material, all according to USDA classifications of fine sandy loam. The differences in classifications and percentages relate to sand and silt. But these materials are in conversation with Mr. Snarsky, Soils Scientist, of New England Environmental Services, and are to be used in the central section at 1' to 2' below ground surface, similar to what's there now. There will be organic rich topsoil as the 12" in the central portion of the 2-foot excavation; and at the sides it's to be 6" for topsoil.

Chair Vitali asked if they are looking for field topsoil or bank-run topsoil.

Mr. Hellerich said more of a field topsoil.

Chair Vitali said topsoil is going to be a manufactured product or not?

Mr. Hellerich thought that that material is found in borrow pits in the vicinity.

Ms. O'Hare said the soils are on p. 21. At your answer for question 81 is what goes into the specification for the -2 mm. So what percentage is anything? I see the sizes, but I don't know how many big pebbles are in that mix—1% or more?

Mr. Hellerich said they have been provided in ranges in the bulleted list below that. At -2mm, the minimum would be 40% of the total amount; the -2.5 mm would be at 50%. So the maximum amount of those pebbles would be 10%.

Ms. O'Hare asked if there would be any far below that?

Mr. Hellerich said about 50%. This was a percentage given to me by a geotechnical engineer.

Ms. O'Hare said, so it would be only 10% of the large pebbles?

Mr. Hellerich said, at the max.

Ms. O'Hare asked if they are specifying both?

Mr. Hellerich said, they would use fine sandy loam or a silty loam or a combination. It's likely they would find one or the other that would match. They're similar to one another. He continued: The second item is a single 11" by 17" sheet, the Soils Sourcing Location Plan. The IDs for the locations were hard to read, so we revised it to make the IDs larger and easier to read. The third document is our Revised Project Plans to revise the number of additional notes/callouts as was requested in the comments. Those are calling out different features on the plans. We added soil types, for example. Also, we updated the flood mapping to the 2017 map. Sheet C-000 shows 2017 mapping, plus we color-coded it for the 100-year, 500-year, and 1,000-year as well and provided some additional E-1 and sedimentation controls. Two examples are some additional rows of staked straw bales that are downslope of the temporary outfall. And additional rows of staked straw bales that are downgradient of the existing outfall as well.

Ms. O'Hare said, You were using the 2010 flood date, and now it's 2017?

Mr. Hellerich said, Yes, 2017. The Floodway is similar. The 2017 map showed the 100-year line from the parking lot into the wetland, which makes sense. I think the wetland line is higher, maybe 1 foot higher, perhaps.

Ms. O'Hare asked, Is that the 100-year line?

Mr. Hellerich said because the Floodway is perhaps on the 100-year Flood line. The Floodway is a regulated no-build flood zone.

Ms. O'Hare said that she thinks of a Floodway as the river flow going in one direction and the Floodplain as going more sideways.

Mr. Hellerich said I don't interpret it that way. I think of the Floodway as a regulated no-build zone. The reason for the flood study was to determine that you could not construct where there was adverse capacity in the Floodplain.

Ms. O'Hare asked, would the 100-year Floodplain have impact if you built in the Floodplain?

Mr. Hellerich said I don't know if you would have as much impact as if you built in the Floodway. It's according to the designation. On Sheet C-003 we added a series of orange lines. These represent dividing the project into excavation cells, and we added some notes at the bottom of C-003. The six east and west parts were divided into 13 Excavation Areas, and the central portion was divided into 10 Excavation Areas—to show how the project would be performed. We tried to come up with methods for each of these cells that could be done in a fixed approach: excavation, backfilling, and not having exposed area open for a long time.

He continued: Sheet C-005 is the Wetland Restoration Plan. There were comments related to the addition of skunk cabbage and vines, and we added those species to the Restoration Plan.

Ms. O'Hare asked to look at C-005: What are the arrows in the excavation areas in the middle?

Mr. Hellerich said the levels show stormwater flows from proposed temporary and existing outfalls. Those flow arrows were added in September to show where the flows would likely go, given the elevation contours existing at the site.

He continued: Per C-202 (detail sheet), the level change arrows were put there from comments and questions on details for the Erosion Control Plan. They are not meant to be in the Wharton Brook stream. So we eliminated that, and this is standard Erosion Control breakout information.

Chair Vitali asked, where is the material going that you're taking out?

Mr. Hellerich said it has to be disposed of at a licensed disposal facility, probably a landfill in Massachusetts or New York.

Commissioner Kern asked, Could you cook the soil and take the nickel out?

Mr. Hellerich said it would probably take extremely high temperatures--maybe if it was packed in organic matter.

Commissioner Kern said so it's to be relocated and not disposed of. You can't use it for landfill cover?

Mr. Hellerich said that's possible; there are landfills that would take it and place it under a cap.

Ms. O'Hare asked if there is a typo as the Rippowam is upland and paved on C-000? That is why NRCS Soils information should not be used.

She then asked, Can you show the Commission exactly what work will occur below the Ordinary High Water Mark?

Mr. Hellerich summarized the River Contingency Plan of areas showing normal E-7 Sedimentation Controls. So we divided the plan into two sections: one, "Erosion and Sedimentation Control

Measures” and two, “Erosion and Flood Contingency Response Measures”. From the comments provided earlier, we were required to do Flood Contingency measures, and we had a certain process. We started by summarizing the rainfall data for the Wallingford area, which is attached, for the last 20 years, Attachment D in our submission. And one of the findings says that as those rainfall events increased, the frequency of the higher rainfall events increases quite a bit. For a 1½” daily rainfall event, about 2% of the events fall in that category. As you get to ½”, the percentage drops below .03%. So on average 1/10 of storms that in a year had that much rain. We tried to put it into statistical terms. In Attachment B, we incorporated the FEMA 2017 boundaries for a 100-year flood and outlined the profiles for Wharton Brook. Attachment B has the Flood Insurance Rate Map for 2017; then there’s the inset for this project area. Attachment C is the Flood Erosion Study Channel for Wharton Brook, showing flood profiles for different-sized storms. Then, in the Flood Contingency Response Measures section we developed two tables. See page 3-2 where we looked at different flood events and tried to develop responses to those different flood events. So we divided those between the Construction Phase and then the Restoration Phase. In the construction phase, we’re most concerned because of the openness. We start with the map, then 1-year, 2-year, 5-year, and 10-year flood events.

He continued: Using the tables and the FEMA mapping, we tried to relate the response back to the different elevations in the project area. For a one-year storm, on page 3-2, what are our response measures? We’re using a 4-tiered approach based on the weather that’s coming: Going back to the rainfall data (Attachment D), it has a table of Wallingford, CT rainfall data, taken from the Rainfall Atlas of the U.S. With our storm duration and the time period across the top, then we look at the forecast to see what we’re expecting for an amount. And we can then go to the table and see that it’s a one-year, 5-year storm, etc. So at one week ahead, we look at the one-year storm and discuss the weather forecast; then we discuss it at 5 days before the event and say, “Do not do excavation.” At 3 days before the storm we have completion of backfill for there; and we install straw wattles and bales around elevation 23. So we did this for forecasted storms.

He continued: And at the bottom of page 3-3 is what happens after the event. The project area gets reviewed, and then we have Response actions to take. Areas that were eroded will be re-covered; for washout of seeded area, the erosion needs to be replaced and installation of new seedlings. So it’s an approach to restore based on the impact on the site taking account of flood controls, impacts and responses. These Contingency Plans are to address the comments of October 2 and October 7.

Commissioner Simon asked, We discussed the time of year and the risks for the plan. Wouldn’t summertime be better than springtime to do this?

Mr. Hellerich said this is a good point. We know that rainfall and floods are highest in spring. If the Commission felt strongly about the time of year, we’d discuss that.

Commissioner Simon asked if you would limit how many areas would be open, or would you just work in between rainfall events?

Mr. Hellerich said we’d start operation in late spring, because the rainfall is less in summer, fall and winter. The idea would be to go back to the excavation cells and to make sure that we do not have too many open at the same time.

Commissioner Simon said O.K.

Ms. O’Hare asked, How often do we get a one-year storm?

Mr. Hellerich said that is on the second page to last in the Contingency Plan. Data for one-year storms is from the Atlas. If you had a 30-minute storm and 1" fell during that storm, that would be a one-year storm. If that rain gets distributed over a longer time period, you'd need more time to get a one-year storm.

Ms. O'Hare asked if we get a bunch of storms like that in the spring?

Ms. Hellerich said, Yes, in the spring you could have some storm events like this, but then you could have a hurricane that comes and could deposit a good amount of rain. So let's take 1" to 1 1/2" as a three-hour storm. That's a one-year storm. If we look at the small table at the bottom, what we did was take the daily data set in which there were 7,566 days. Then I took the top 30 rainfall events. And there was 2.2" of rain up to 4.28" of rain. That was the measured rainfall of a storm event in the historic record. So over the top 30 rain events I saw how much and how long the duration of the storm was; and I then took the amount of rain over that duration for those top 30 events. Over 20 years, we had four one-year storms, 11 two-year storms and two 10-year storms.

Ms. O'Hare said, I see that most of our storms are less than one-year storms.

Mr. Hellerich said Yes. At seven days before the event, we discuss it. At five days, we begin to plan. At three days before, we cease work; at two days we complete the excavation and install straw wattles; and the day before the storm we make outstanding repairs and secure erosion controls over the site. So we're taking all the storms seriously.

Ms. O'Hare said, I don't see unusual erosion control management practices.

Mr. Hellerich said, it ramps up for the size of the event.

Chair Vitali said, so that's how you're going to handle the storm events?

Mr. Hellerich said Yes.

Ms. O'Hare asked, what's proposed for the section at the Ordinary High Water event?

Mr. Hellerich referred to Sheet C-001 in the Erosion and Storm Control Plan. If you look all the way on the western side of the project, you see a clouded area and a dashed bolded line. It's the Ordinary High Water line, a designation by the Army Corps of Engineers. That's a line that our Soils Scientist had to designate and it shows physical signs of elevated water. So the question is: What are we doing above the area where the dashed bold line crosses into our excavation areas? We have a double row of silt fence, and outside of it we're talking about having flood mitigation measures. I talked to Matt Sanford, and mitigation measures would be proactively deployed. So we're doing this work at a time when the Wharton Brook is at the High Water line. But we deploy the measures when it's at the low point and tying to an elevation at the west and tying to an elevation in the east. So we have silt fences in place. If a storm is coming, we'll fortify the area, put up stabilization before the storm comes into the area, etc. So we provided a couple of examples: port-a-dams deployed before in the Connecticut River and other projects. We want our contractor to provide that device.

Ms. O'Hare said and you said you wouldn't be working at the Ordinary High Water mark—so you would be working there in the summer?

Mr. Hellerich said it could be June if we were in a time of less rain.

Ms. O'Hare said so you would have to move to other areas?

Mr. Hellerich said Yes, we could accommodate that.

Chair Vitali asked for questions from the Commissioners. There were none. Chair Vitali said he did not think much would be decided tonight, due to the Milone and MacBroom report not being here. So it will go to next month. We'll see you then.

This application was tabled to the December 2, 2020, Regular Meeting.

**E. NEW BUSINESS** - There was no New Business.

**F. RECEIPT OF NEW APPLICATIONS** – None.

**G. PROPOSED 2021 REGULAR MEETING SCHEDULE**

In discussion, Chair Vitali suggested to have the July Regular Meeting on July 14.

**MS. PHILLIPS: MOTION TO APPROVE THE MEETING SCHEDULE FOR 2021 WITH THE CHANGE TO HAVE JULY 14 AS THE REGULAR MEETING DATE.**

**MR. SIMON: SECOND**

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

This schedule will be posted with the Town Clerk and made available on the Town website.

**H. REPORTS & COMMUNICATIONS**

- 1. Discussion of proposal to adopt fines for violations** – Not discussed.
- 2. Farm Hill Road Detention Basin** – letter forwarded to IWWC, Mayor and staff from Mike Votto, 377 North Elm Street; regarding status & condition of basin

Chair Vitali said the pond there was changed from a detention basin to a pond. He thought that the three owners around the detention pond had changed it. When it rains, water flows down behind the people's houses. The Town looked at it; and perhaps they thought the "dam" at the pond was going to fail. It's an item of discussion again. Three of five people did not want to pay to dredge the pond. It would have helped. I think it should get back to being the detention pond that was approved by DEP prior to us becoming a commission. I think we need to direct Erin O'Hare to bring out the map and to tell us what DEP wanted there. It comes back to the day when the Town Planning and Zoning required these ponds, but there was no direction on maintaining them. So I think the Commission should take a position. They're all looking at us, as a problem with wetlands and why it's flooded.

Commissioner Simon said if it was a designated retention pond, what gave them the right to dam it up and make it a pond?

Chair Vitali said they used to have a set of stairs to get down into the pond. Now they have an aerator in it. It's their property.

Commissioner McKeen said she feels that it is a violation because it was supposed to be a retention pond. They turned something they had into something that's not functioning as it was supposed to anymore.

Chair Vitali directed Ms. O'Hare to pull out the file and see what was originally decided, and to bring it back for discussion.

## **I. VIOLATIONS**

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

No one appeared on this Violation. Ms. O'Hare said there has been no change to the site that she knows about.

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

No one appeared on this Violation. Ms. O'Hare said there has been no change.

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

No one appeared on this matter. Ms. O'Hare said there has been no change.

## **K. NEXT MEETING: (Remote) Special Meeting, Tues., Nov. 10, 2020, 7:00 p.m. – Public Hearing - Significant Activity #A20-10.3 / 5 Research Parkway / Muddy River – Montante Construction, LLC – (industrial development)**

Ms. O'Hare said the Commissioners have received this Special Meeting notice. This Notice is already posted on the Town website under Inland Wetlands and Watercourses Commission information. She handed out to the Commission the materials received to date. Also, she has been posting any items that are received on the Town website: the Agenda, her Environmental Planner's Report, plus other official comments and printed public comments.

**NEXT Regular Meeting**, Dec. 2, 2020, 7:00 p.m., with the venue to be determined.

## **J. ADJOURNMENT**

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

**MR. SIMON: SECOND**

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

The meeting was adjourned at 8:16 p.m.

Respectfully submitted,

Kathleen L. Burns, Recording Secretary