

**Inland Wetlands and Watercourses Commission  
Town of Wallingford**

**REGULAR MEETING  
Wednesday, February 4, 2009**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, February 4, 2009, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

Seated from the Commission were Jim Vitali – Chairman, Ellen Deutsch – Vice Chair, Nick Kern – Secretary, Jeff Kohan, James Kovach - alternate, Jim Heilman – alternate, Dave Parent – alternate, and Environmental Planner Erin O’Hare.

Chairman Vitali called the meeting to order at 7:00 p.m.

**CONSIDERATION OF MINUTES:**

January 7, 2009 - Regular Meeting

Ms. Deutsch made a motion to approve the Minutes of the January 7, 2009 – Regular Meeting. The motion was seconded by Mr. Kohan and passed.

**OLD BUSINESS:**

**#A07-1.4 / 82 & 124 CONSTITUTION STREET** – BJB Construction  
(release of bond)

Ms. O’Hare indicated that there has been no movement on the necessary documents for this permit since the last meeting and the so bond is not ready to be released. She referred to her Environmental Planner’s Report, dated January 30, 2009.

**#A04-4.2 / 105 SOUTH TURNPIKE ROAD** – Juniper Ridge Associates,  
LLC (release of bond) – Withdrawn

Ms. O’Hare referred to her Environmental Planner’s Report, dated January 30, 2009. The Permittee has withdrawn the request for bond release at this time.

**NEW BUSINESS:**

None

## **VIOLATIONS:**

None discussed.

## **REPORTS & COMMUNICATIONS:**

1. #A07-6.6 / 760 North Farms Road – VH Homes, LLC – vegetative cover and uses within regulated area in rear yards.

Chairman Vitali indicated that after speaking with Ms. O'Hare it is believed that the Permittee was to install a row of bushes at the approved upland review line. The bushes have been planted by the developer. The problem arises because on some of the sites there has been grass planted behind that row of bushes. Chairman Vitali stated that there wasn't anything spelled out explicitly in either the conditions of approval or in the Minutes of several meetings stating that this should not be done.

Ms. O'Hare indicated that she was on the site doing an inspection with the developer when they discovered that they had a different recollection of a provision on this site. Ms. O'Hare referred to her Environmental Planner's Report, dated January 16, 2009, which includes a letter from Attorney Joan Molloy. In the approval process, each lot was looked at on a case-by-case basis to determine how much of the upland review area would be allowed to be planted as lawn. Recently, the line of bushes was planted on the lots developed along that line. The bushes were installed to create a visual marker to the owners of these lots as to where that encroachment line is. The placards were also to be placed along that line. Ms. O'Hare stated that the issue is what can be done behind that line of bushes. She stated that there has been grading behind the bushes on one lot. There has been the removal of hay fields and golden rod behind the bushes; these fields have been replaced with lawn grass. Ms. O'Hare indicated that a current owner of a lot wants to install a pool that would have the fence behind this bush line.

The Commission discussed the issue. It was determined that Ms. O'Hare will go back and view the videotape of the meeting and prepare it to have the Commission review it. Ms. O'Hare will also get together for the IWWC the Minutes, Notice of Decisions, and the Environmental Planner's Reports that go with the meetings.

Ms. O'Hare indicated that the A-2 surveys on file in the Building Dept. for two lots that contain wetlands, do not depict the regulated area or the required bushes along the encroachment line. Attorney Molloy stated that the Building Dept. A-2 surveys are different from the A-2 surveys she is providing buyers with at the closing that delineates everything that she said would be provided to the buyer, (regulated boundary, etc.). Mr. Heilman asked if anyone actually discusses these issues with the buyers. Attorney Molloy indicated that there is a package of materials provided to each prospective buyer containing all of the pertinent documents. Attorney Molloy indicated that she did not spend a great deal of time, during the closings, reviewing this shrub line. She indicated that she was not aware that there was a problem until she received a copy of the letter from Ms. O'Hare. Since the receipt of that letter Attorney Molloy and the developer have been trying to resolve these issues.

The Commission will not make any decision until it has reviewed the tapes. The Chairman requested that Ms. Molloy have the Permittee hold off on planting any more lawn area. Ms. Molloy indicated she will work with Ms. O'Hare on how the site is going.

2. DEP Permit Applications for the Use of Pesticides in State Waters – Ashlar Village Pond, Choate School Ponds, Mungo Pond (Maltby Road)

Ms. O'Hare discussed material received from DEP called "Permit Application for the Use of Pesticides in State Waters", wherein the DEP requests any comments from the IWWC. The Commission had no comments.

3. PZC Special Permit #424-09 – Old North Colony Properties, LLC – 12 Old Colony Road – (limited fill operation)

Chairman Vitali stated that the Planning and Zoning Commission reviewed a plan that had wetland involvement. The Applicant then modified the plan so there was no activity in the regulated area. This plan had come in front of Ms. O'Hare to be reviewed for comments. Ms. O'Hare wrote a memo to Linda Bush, Town Planner, dated January 29, 2009, spelling out her concerns. Her main concern is erosion control. Ms. O'Hare feels the site - with 77,000 cubic yards of fill to be stockpiled - should have an erosion control plan. There is also an area identified by the DEP on site as an area of biological significance.

4. DEP Inland Water Resources Division – investigation request – Public Works storage yard – 91 North Turnpike Road

Chairman Vitali indicated that this Commission has had issues on this site before and it has requested that Public Works stop using the site. Public Works did not stop using the site and now DEP is involved. Ms. O'Hare referred to a letter from Marla P. Butts, State of Connecticut; Department of Environmental Protection, dated January 26, 2009. The Commission discussed how it should respond to this letter from DEP. Ms. O'Hare sent a memo, dated January 29, 2009, to the Mayor stating that the Commission would like to consult with the Legal Department before responding to DEP regarding this matter. Ms. O'Hare has not received any response from the Mayor at this time. Ms. O'Hare showed the Commission a map that compares the site expansion from 1993 to 2007. The Commission discussed the expansion of the site.

5. Wallingford Adult and Continuing Education class – "All About Wetlands", March 25

Ms. O'Hare stated that the Conservation Commission was sponsoring a class series under Adult Education and asked her if she would be interested in teaching a class on wetlands for it. Some Commissioners discussed the possibility of teaching this class being a conflict of interest. Ms. O'Hare stated that she does not want to cause any problems so she is willing to discuss it with the Legal Department and Personnel Department to be sure there is no conflict of interest and will report at the next meeting. There was some discussion about the separation of Ms. O'Hare's time between

the Conservation Commission and the Wetlands Commission. Chairman Vitali believes that comp time is going to become an issue in the future.

6. DEP Rejection Notice – Stream Channel Encroachment – 252 Main Street, Yalesville – L&J Partnership, LLC - Brothers Pool

Chairman Vitali stated that a letter came in from DEP indicating that the Applicant has not demonstrated that this plan would not increase flood levels. The Applicant had come in front of this Commission with a remediation plan. The Commission approved the plan but the Applicant had to also apply to DEP. DEP has rejected the application in its current form. Ms. O’Hare feels that there simply was not enough information provided for the DEP to approve the application.

7. CT Association of Wetland Scientists, Program: “Stormwater and Wetland Management: An Update on Programs and Practices”, February 26

Ms. O’Hare stated that she goes to this workshop every year. Anyone on the Commission is welcome to register and attend. (Discussion picked up under item #9, below).

8. “Environmental Site Design Workshop” – (low impact design) – NEMO/DEP – Goodwin College – February 12

Ms. O’Hare stated that she did not intend on going to this workshop. She indicated that this workshop is mainly for contractors and developers, but Commission may be interested in attending.

9. DEP “Municipal Inland Wetlands Staff Only Forum”, February 25

Ms. O’Hare stated that this is a first time event. She feels it would be very useful for her to attend. Ms. O’Hare stated that if the Commission does not want her to attend this workshop and the CT Association of Wetlands Scientists Workshop she would not attend. The Commission discussed the importance of having Ms. O’Hare attend these workshops. After further discussion Chairman Vitali directed Ms. O’Hare to attend only the “Municipal Inland Wetlands Staff Only Forum”.

Chairman Vitali brought up the response to the Meriden proposed auto distribution facility. Meriden did follow procedure and in November had sent the information to the Town Clerk Office and it was signed for. From that point no one is sure what happened to it. Recently, a concerned citizen alerted Ms. O’Hare to the matter and Ms. O’Hare obtained the revised plan. The application is for a proposed auto distribution facility with grading and paving proposed within the regulated 50-foot upland review area. This property abuts the Meriden – Wallingford line. Ms. O’Hare indicated the storm water on this property runs north toward Meriden and not toward Wallingford. There was nothing in the plan that showed impact to Wallingford wetlands from this development. Ms. O’Hare’s comments forwarded to Meriden IWWC indicated no permit was necessary from Wallingford since there was no impact generated. Commissioners Kohan and Kern indicated they were planning on attending the Meriden IWWC meeting February 5.

## **REGULATIONS REVISION** – discussion of draft provisions

Chairman Vitali suggested beginning with the proposed revisions concerning the upland review area. Ms. O’Hare reviewed her memo dated January 30, 2009. She stated that the State would not have its chart showing different upland review areas for different towns ready for a while. She had incorporated suggestions the Commission made at the last meeting into her draft. Ms. O’Hare described a discussion she had with Middletown staff regarding increasing the upland review area from 50 feet to 100 feet and how they were successful in incorporating it into their regulations by allowing sheds, etc., in the area.

Ms. O’Hare described the current fee schedule giving some examples. She referred to her memo again stating that she feels that the fee schedule should have more categories and suggested some new concepts to consider. Ms. O’Hare included in her memo copies of fee schedules from surrounding towns. The Commission discussed how the fee structure was originally created and what it was intended to cover. It discussed the current fees and Schedule A. Chairman Vitali feels that the fees should be simplified perhaps getting rid of Schedule A and incorporating the fees as a flat rate in the other categories. Ms. O’Hare will do some recalculating and report back to the Commission with some new suggestions eliminating Schedule A but not increasing the fees.

Ms. O’Hare discussed her suggested categories to be considered for the fee schedule. She gave some examples that the Town of Cheshire uses. The Commission discussed the suggestions of Ms. O’Hare. Ms. O’Hare will report back at the next meeting how much the Commission has gathered in fees in the past two years. She will also look into the money that is spent publishing legal notices for public hearings.

Ms. O’Hare was directed by the Commission to have the IWWC regulations put on the Town web site.

## **EXECUTIVE SESSION**

1. Executive Session pursuant to Connecticut General Statutes 1-225 (f) and Section 1-200 (6)(A) to discuss performance and evaluation of staff.

At approximately 9:35 p.m. the Commission broke from its regular meeting, staff was dismissed, and it went into Executive Session.

**MS. DEUTSCH:**                    **MOTION TO MOVE INTO EXECUTIVE SESSION.**

**MR. KOHAN:**                    **SECOND**

**VOTE:**                                **UNANIMOUS**

Sonja Vining  
Recording Secretary  
Town of Wallingford  
Inland Wetlands and Watercourses Commission  
February 4, 2009