

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

**REGULAR MEETING
Wednesday, March 3, 2010**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, March 3, 2010, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

Seated Commissioners were Jim Vitali – Chairman, Ellen Deutsch – Vice Chairperson, Nick Kern – Secretary, Jeff Kohan, Jim Heilman – alternate, James Kovach – alternate, and Environmental Planner Erin O’Hare.

Absent was: David Parent – alternate

Chairman Vitali called the meeting to order at 7:01 p.m.

CONSIDERATION OF MINUTES:

February 3, 2010- Regular Meeting

Commissioner Deutsch made a motion to approve the February 3, 2010 – Regular Meeting Minutes as submitted. The motion was seconded by Commissioner Kohan and passed unanimously.

OLD BUSINESS:

#A02 – 6.12 / 63 GRIEB ROAD – Fieldstone Farm – Baker Residential LLC
– (release of bond)

Erin O’Hare, Environmental Planner, reported that the Engineering Department has completed its report but she has not been forwarded a copy yet. This item would be put back on the agenda for the April meeting.

475 WILLIAMS ROAD – Patricia Schlosser, owner, Art and Rita Pires,
tenant – (request for residential use exemption)

475 WILLIAMS ROAD – Patricia Schlosser, owner, Art and Rita Pires,
tenant – (request for agricultural exemption)

Presenting the application was Attorney Janet Brooks and the Applicant Art Pires.

Ms. O’Hare reviewed her Environmental Planner’s Report dated February 25, 2010. She indicated that some new material was submitted today. Ms. O’Hare would like to have the wetland flags put onto the site plan that was submitted to the Commission. She has spoken to Soil Scientist Tom Pietras regarding clarification on filled areas on the site. Mr. Pietras indicated that if filling is less than 20 inches, it is considered wetland soil and if filling is over 20 inches, on top of wetland soil, it is considered filled land (UD – 308). She requested from Mr. Pietras that the wetlands that were

filled with less than 20 inches of material be shown as disturbed areas on the map. Mr. Pietras agreed to add that to the map.

Attorney Brooks reviewed the Cease & Desist dated August 26, 2009 that was sent to Mr. and Mrs. Pires. Mr. Pires addressed each item listed on Page 3 of the Cease & Desist. He insisted that he never put any fill in the wetlands area and he stopped all activity once he received the Cease & Desist from the Town.

Attorney Brooks read sections of the regulations pertaining to residential use exemptions. Mr. Pires indicated that he has brought fill onto the site simply to create a grassed area for his family to enjoy.

Mr. Pires described his farming plans for the wetlands that included constructing a barn for 2 cows, 2 horses, and feed/hay. In the upland review area Mr. Pires is planning a rabbit hut, goat shed, and chicken coop. He stated "existing lawn area will be the pasture." No crops are proposed. The container on the site will be used for the farming operation. Attorney Brooks indicated that Mr. Pires is withdrawing the pond from the application at this time. She indicated there would be no filling for the proposed barn. She read sections of the regulations pertaining to agricultural exemptions.

Attorney Brooks commented briefly on a letter dated March 1, 2010 from Diane Pascale, 1211 Durham Road, which was submitted to the IWWC today. Mr. Pires stated that he has not cut any trees on this site.

There was discussion about past filling on this site. The Commission discussed the report submitted by Mr. Pietras. Chairman Vitali feels that there is a lot more activity on this site than is being talked about. He would like to get clarification from Mr. Pietras on the subject of 20 inches of fill over a wetland. Commissioner Kern would like to have a site walk, with Mr. Pietras present, where Mr. Pires could dig some test holes to be examined regarding the fill line from 1993. Mr. Pires listed past violation areas as the driveway turnout, fill under the greenhouse, kennel and the shed. Attorney Brooks made it clear that she was representing Mr. Pires for the Cease & Desist issued on August 26, 2009. Mr. Pires stated that there were several violations on this site prior to him renting the property and no action was ever taken. Attorney Brooks stated that Mr. Pires is only responsible for those items listed in that Cease & Desist.

Attorney Brooks suggested that the application be tabled to the next meeting so she could have the opportunity to get clarification from Mr. Pietras.

There was discussion about if the property owner has received all of the Cease & Desist orders that Mr. Pires has. Ms. O'Hare indicated that all of the Cease & Desist orders that have been generated have been sent out to both the property owner and Mr. Pires. Mr. Pires assured the Commission that the property owner is aware of everything he has done. Ms. O'Hare stated that the owner signed the two request letters but it is not clear if the property owner has knowledge of the future plans of Mr. Pires. Mr. Pires stated that he would get the signature of the property owner on the farming plan for the site.

Attorney Brooks stated that she would consent to the site visit and would work out the details with Ms. O'Hare. The Commission discussed where they would like to see the test holes dug. Ms. O'Hare is most concerned with the area behind the house. She indicated that there has also been filling at the entrance to the driveway and at the driveway turn out, where logs were deposited into

the swamp. Ms. O'Hare would like to have Mr. Pires hire someone to put the wetland flags on the plan. She would like to see the areas where there is less than 20 inches of fill over a wetland delineated as "disturbed areas" on the plans. Ms. O'Hare indicated that Mr. Pietras had agreed to do that on the plan.

Commissioner Heilman has some concerns with animals being proposed in this area that floods from time to time. This area is a watershed and is just a couple of miles from the public water supply. Commissioner Heilman believes that the Health Department and Public Works should be notified of the proposed kennel, chicken farming and other animal activity.

Chairman Vitali indicated that he was aware that there were people in the audience waiting to comment on this application and asked them if they would like to speak at this time. Attorney Brooks noted for the record that she objected to public comment since this application was not noted as a public hearing.

Speaking from the public was: Diane Pascale, 1211 Durham Road, who submitted to the Commission a map she got from Rob Baltramaitis in the Engineering Department showing the flood plain area. She indicated that the area has flooding issues and she has documentation of each flooding event since she has moved into her home. Ms. Pascale stated that she has seen activity in the wetlands at 475 Williams Road. She indicated that there is currently open lawn area on 475 Williams Road that didn't used to be open. Ms. Pascale has concerns with construction equipment being kept on the site, flooding, clearing of the land, and the possibility of her well water being contaminated. She doesn't understand how a barn would be allowed to be constructed in an area that floods.

Attorney Brooks stated that site visits are for orientation only and if there is a site walk scheduled, there should be a Special Meeting scheduled, in the Town Hall, for right after the site walk to address any questions the Commissioners might have. After some discussion the Commission decided to put together a list of questions for Mr. Pietras to address at the site walk. The numbers of holes that will be dug will have to be agreed upon. The report from Mr. Pietras would have to address all of the questions proposed by the Commission and Ms. O'Hare.

Ms. O'Hare would generate a draft list of questions to be approved by the Commissioners. The approved list would be forwarded to Attorney Brooks. Attorney Brooks would then acknowledge that she would have Mr. Pietras generate a report answering the questions of the Commission. Attorney Brooks would also indicate how many test holes the Applicant would be willing to dig. The digging would be done where requested by Ms. O'Hare. A date would then be set for the site investigation.

Commissioner Kohan stated for the record that he works with the property owner, Patricia Schlosser. Chairman Vitali stated that it would be up to the Applicants to decide if they feel comfortable with Commissioner Kohan voting on this application. Attorney Brooks stated that she has no way of knowing if Commissioner Kohan has a personal or financial interest in this application. If he has a personal or financial interest, direct or indirect, as the law states, Mr. Kohan cannot sit for this application.

The matter would be continued to next month.

**#A10-2.1 / 70 TYLER MILL ROAD – Town of Wallingford – Water
Division – (water facility improvements)**

Presenting the application was Jay Palowski, Water Division.

Mr. Palowski stated that the project is within the stream buffer of the Muddy River. The project would involve some excavation to work on the existing pipeline. Some above ground structures would be removed. They would be clearing the section of easement adjacent to that area. There is Japanese Knotweed here proposed to be eradicated. The Water Division will coordinate that work with the Conservation Commission's proposed eradication plan if the timing allows. The work is scheduled to begin this spring. No material will be removed from the site.

Ms. O'Hare reviewed her Environmental Planner's Report dated February 26, 2010.

**MS. DEUTSCH: MOTION THAT APPLICATION #A10-2.1 / 70 TYLER MILL ROAD
BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

MR. KOHAN: SECOND

VOTE: UNANIMOUS

**MS. DEUTSCH: MOTION TO APPROVE APPLICATION #A10-2.1 / 70 TYLER MILL
ROAD BE APPROVED WITH THE FOLLOWING CONDITIONS OF
APPROVAL:**

- 1. WATER DIVISION TO CONTACT CONSERVATION
COMMISSION WITH PROPOSED ACTIVITY
COMMENCEMENT DATE.**
- 2. STANDARD BEST MANAGEMENT PRACTICES WITH REGARD
TO ERADICATION CHEMICALS AND METHODS BE
EMPLOYED.**
- 3. STANDARD PERMIT TERMS.**

MR. KERN: SECOND

VOTE: UNANIMOUS

The issue of placards to be installed was discussed and it was agreed staff would suggest appropriate placement of placards.

NEW BUSINESS:

**#A07-11.1 / 135 FAWN DRIVE – Fawn Drive Associates – (extension of
commencement date)**

Ms. O'Hare stated that on June 3rd, 2009 the Commission acted to extend the Applicant's commencement date for one year. The original date was May 7, 2009 and that was extended to May 7, 2010. The Applicant is now asking to have that date pushed to May 7, 2011.

MS. DEUTSCH: **MOTION THAT APPLICATION #A07-11.1 / 135 FAWN DRIVE HAVE THE COMMENCEMENT DATE EXTENDED BY ONE YEAR.**

MR. KOHAN: **SECOND**

VOTE: **ALL VOTING MEMBERS VOTED “YES” EXCEPT FOR MR. KERN WHO VOTED “NO”.**

RECEIPT OF NEW APPLICATIONS:

#A10-3.1 / 5 RESEARCH PARKWAY – Bristol-Myers Squibb Co. – (pond restorations)

Presenting the application was Carl Noonan, Bristol-Myers Squibb Co. and Dave Roach, All Habitat Services.

Bristol-Myers is proposing two pond restorations returning them to the stormwater retention capacity that they had originally. The ponds are currently shallow as they are full of weeds (Elodea) and the capacity have been severely reduced. The plan is to vacuum dredge out the sediment and the weeds in order to return the pond back to the original design capacity. Bristol-Myers has tried several different ways to reduce the weeds but they have not been successful.

Mr. Roach explained how the equipment works and how the process of dredging the pond would take place. The project would be done in April/May. The entire dredging project would take 10-14 days. DEP tested sediments for contaminants and there aren't any.

MS. DEUTSCH: **MOTION THAT APPLICATION #A10-3.1 / 5 RESEARCH PARKWAY BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

MR. KOHAN: **SECOND**

VOTE: **UNANIMOUS**

The application will be acted on at the next meeting.

VIOLATIONS:

1. 216 Northford Road – Lynne Cooke Andrews – (cease & desist)

Ms. O'Hare reviewed the Environmental Planner's Report dated February 25, 2010 and a memorandum from Janis Small, Town Attorney, dated February 24, 2010.

Chairman Vitali reviewed the exact steps that were taken by the Commission and Ms. O'Hare to gain access to the property. The Town was not granted access to the property.

Ms. O'Hare visited the Town of Wallingford property adjacent to this property. She was not able to see any erosion controls from the edge of the Town of Wallingford property. The Commission discussed ordering a specific commencement date for the remediation work. The completion date

has already been set for June 1st, 2010. The Commission decided not to set a commencement date. Chairman Vitali directed Ms. O'Hare to send out another certified letter to the property owner stating that the Town has tried to gain access but it was denied. The goal of the IWWC is to get the wetlands restored back to the way they were before this activity.

2. 475 Williams Road – Patricia Schlosser, owner, Art and Rita Pires, tenant – (cease & desist)

Discussed earlier.

REPORTS & COMMUNICATIONS:

1. Pace University Law School – Land Use Leadership Alliance Training Program

Ms. O'Hare asked if anyone was interested in attending. Commissioner Kohan indicated that he may be interested.

2. DEP 2010 Municipal IWWC Training Program

Ms. O'Hare indicated that she would like to attend Segment #2. Chairman Vitali stated that she should wait and see what the workload is at that time. Commissioners Kovach indicated he will attend Segment #1.

3. DEP Pesticide Permit Application – Ashlar Village Pond

Ms. O'Hare stated that Ashlar Village has applied to DEP and asked if the Commission had any comments. The Commission had no comments.

4. Budget FY 10-11 – report

Chairman Vitali stated that there is proposed a zero increase from last year's budget.

5. Budget FY09-10 – transfer request

Chairman Vitali indicated that there was some transfer of funds but they were already in this year's budget and they just had to be moved around.

REGULATIONS REVISION:

1. Special Meeting – Regulation Revision Workshop, Room 205 (Bid Room), March 10, 6 p.m.

2. Discussion of proposed regulation revisions

Chairman Vitali indicated this matter will be taken up at the Workshop.

3. Maintenance of stormwater management facilities – permitting requirement

Ms. O'Hare asked for clarification on where the line is drawn between conducting routine maintenance on a stormwater management facility and doing work that would require a permit. Chairman Vitali suggested that the threshold would be if the pond were to be enlarged. Commission Heilman feels that a concern would be if the activity has the potential to have down stream implications. He believes that there should be some distinction between ponds that go dry and ponds that thrive as an active wetland environment. Commissioner Kern feels that the difference is a wet bottom basin and a dry bottom basin.

Ms. O'Hare notified the Commission that Choate has been in contact and it would be starting the athletic field that was approved in 2008.

ADJOURNMENT:

Commissioner Deutsch made a motion to adjourn. The motion was seconded by Commissioner Kohan and passed. The meeting adjourned at 9:53 p.m.

Sonja Vining
Recording Secretary
Town of Wallingford
Inland Wetlands and Watercourses Commission
March 3, 2010