

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

**REGULAR MEETING  
Wednesday, June 2, 2010**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, June 2, 2010, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

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

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

**CONSIDERATION OF MINUTES:**

May 5, 2010 - Regular Meeting

Ms. O’Hare, Environmental Planner, made a correction to Page 4, Application #A10-4.3, 1<sup>st</sup> paragraph, the spelling of “Mr. Milici” should be corrected to read “Mr. Melisi”.

**MR. KOHAN:**                    **MOTION TO APPROVE THE MAY 5, 2010 – REGULAR MEETING MINUTES AS CORRECTED.**

**MR. PARENT:**                **SECOND**

**VOTE:**                            **UNANIMOUS**

**PUBLIC HEARING ITEM:**

**1. Adoption of proposed regulation amendments – (Section 1-6, 18 & 19)**

Chairman Vitali opened the Public Hearing at 7:05 p.m. He indicated that the Commission along with Erin O’Hare, Environmental Planner, has taken the existing regulations and revised them to follow guidelines that the State has set forth. Certain sections of the regulations have been deleted and replaced with revised proposed regulations. Sections 1 through 6, Section 18 and the Application Fees Section will be deleted and replaced with revised Sections 1 through 6, Section 18 and 19. The Commission has spent a lot of time on these revisions and has held several workshop meetings. Chairman Vitali stated that the proposed regulations have been sent to the DEP for its review. The Town Attorney also reviewed the proposed regulations and has included her comments in a memorandum dated May 26, 2010.

Chairman Vitali indicated that Attorney Joan Molloy actively participated at several of the workshop meetings. He asked her to come forward and participate in the discussion of the Town Attorney’s comments. Attorney Molloy indicated that she has reviewed a copy of the memorandum as forwarded by Ms. O’Hare.

The Commission reviewed Section 2.1 (z)(2), which Attorney Small included in her memo. Ms. O'Hare gave some background on this proposed change and commented on the memo from Attorney Small. She pointed out that the Commission has to do what it can to provide pretreatment for the flows before they enter the natural watercourses.

The general consensus of the Commission was that it likes the regulation as it is written, without any specific distance because it gives the Commission broader authority to regulate activities and to make suggestions that it feels necessary.

Attorney Molloy pointed out that there are a lot of stormwater management minimum designs that are being required by DEP and by towns now. She feels that the regulations have to help the Applicant understand what the Commission is looking for and what the connection is. In some cases it is apparent that an application should be filed, but in others it is less apparent and it needs to be clear to the Applicants when an activity is "likely to impact...".

Ms. O'Hare pointed out that the absence of a distance, such as 50 feet, has been in the regulations for the past 20 years. This language has been in the regulations for the past 20 years, it is not new.

The Commission discussed Section 2.1 (z) (3). After some discussion it was decided that Section 2.1 (z) (3) will stay as proposed.

The Commission discussed Section 4.4. Ms. O'Hare explained that Section 4.4 pertains to when people come in for a permitted use as of right or a non-regulated use. People come in and request a determination of exemption. Section 4.4 deals with the mechanism of how they do this. After some discussion it was decided that the term "form" in Section 4.4 would be changed to "Request for Determination form" and after the term "sufficient information" the words "relative to the activity proposed and its relationship to present uses on the property" would be inserted.

Speaking from the public was:

Mary Mushinsky, Quinnipiac River Watershed Association, who read a prepared statement supporting the updating of the IWWC regulations, and advocating for "greater upland review are" and some other water quality concerns. The statement was submitted for the record.

Erin O'Hare, Environmental Planner, stated that the Public Hearing was advertised in the paper, the amendments were forwarded to the DEP staff and the DEP Commissioner. She has not received any written response from the DEP as the DEP no longer provides this function. Ms. O'Hare stated that the amendments were made available as required in the Town Clerk's office and also in the Environmental Planner's office. If the Commission decides to act, the regulations would become effective upon being published in the paper.

Attorney Molloy thanked the Commission for allowing her and other members of the development community to participate in these discussions and workshops regarding revising the IWWC regulations.

Chairman Vitali closed the Public Hearing at 7:50 p.m.

## **CONSIDERATION OF PUBLIC HEARING ITEM:**

### **1. Adoption of proposed regulation amendments – (Section 1-6, 18 & 19)**

Chairman Vitali indicated he felt the adoption could be considered tonight.

**MR. PARENT:**            **MOTION THAT THE PROPOSED REVISIONS TO THE INLAND WETLANDS AND WATERCOURSES COMMISSION REGULATIONS BE APPROVED WITH THE CHANGE MADE TO SECTION 4.4 THAT “FORM” BE CHANGED TO “REQUEST FOR DETERMINATION FORM”**

**MR. KERN:**            **SECOND**

Mr. Kohan believes that there was one other change that Ms. O’Hare would like to see in that section. Ms. O’Hare stated that after “sufficient information” the words “relative to the activity proposed and its relationship to present uses on the property” should be added.

**MR. PARENT:**            **WITHDREW MOTION.**

**MR. KERN:**            **WITHDREW SECOND**

**MR. PARENT:**            **MOTION TO ADOPT THE PROPOSED REVISIONS TO THE INLAND WETLANDS AND WATERCOURSES COMMISSION REGULATIONS WITH THE LANGUAGE THAT WAS SUGGESTED BY ERIN O’HARE, ENVIRONMENTAL PLANNER.**

**MR. KOHAN:**            **SECOND**

**VOTE:**            **UNANIMOUS**

**OLD BUSINESS:**

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

Erin O'Hare, Environmental Planner, referred to a letter from Fieldstone Farm Association, Inc. dated May 23, 2010 wherein. Fieldstone Farm Association is asking for assistance from the Engineering Department in looking into this matter. Ms. O’Hare reviewed the Environmental Planner's Report dated May 27, 2010. She would like to have the Engineering Department as well as the Law Department look into this issue.

Chairman Vitali pointed out that Baker Residential did what the Commission approved. The Town of Wallingford Engineering Department also reviewed the plan that was approved. He is concerned that the bond is being held on work that has actually been done as originally approved.

Ms. O’Hare feels that there needs to be input from the Law Department on if this is a civil matter at this point between Baker Residential and Fieldstone Farm.

It was decided that the bond would not be released at this time and one month would be given to this issue.

**#A10-4.3 / 76-90 SOUTH TURNPIKE ROAD – Martinez Couch & Associates, LLC – (commercial/residential subdivision development – 3 lots)**

Presenting the application was Richard Couch, P.E., Martinez Couch & Associates, LLC, Tom Pietras, Soils Science and Environmental Services, and the owner, Matt Melisi.

Mr. Couch reviewed the changes that were made since the last presentation. There has been a separation of the stormwater discharges from the different portions of the driveway so they aren't coming onto a single splash pad. The splash pads have been designed to take the flow from up to 100-year storm. They have been placed as far away from each other and as far up the watercourse as gravity will allow. The roof drainage discharges into recharge trenches that will overflow into the watercourse.

Ms. O'Hare was hoping to see more separation of the stormwater discharge points but she has been told that it is not possible due to the grade. She did some research but was unable to find any old site plan on record. She questions the quality of the soils along the stream bank. A buffer planting plan has been provided. Ms. O'Hare stated that the plan is using the same soil that is out there today. She suggested that some of the existing soil be taken out and replaced with more appropriate soil for those wetland plantings. Ms. O'Hare feels that a landscaping bond should be attached to the application. She would also like to see a more diverse landscaping plan. Ms. O'Hare feels that the overall plan is fine except she has issues with the planting plan.

Mr. Pietras stated that he flagged the wetlands on this site and assisted Jennifer Beno on the planting plan. He reviewed what he found on his site visit. Mr. Pietras stated that the natural soils on the site are sand and gravel soils. A lot of the original soils have been manipulated. The planting plan will be a landscaping feature as well as provide stability to the soil.

Ms. O'Hare indicated that right along the stream, about 10 feet back, she would like to see some plantings to create a riparian corridor. She doesn't feel that plantings will do well in the soil that is currently there. She would like to see other species added to the planting plan to create some diversity. Ms. O'Hare stated that if the Commission were to approve this application tonight it should have conditions attached that there be a bond for the landscaping, more diversity to the plantings, and that the stormwater maintenance management plan would have to be adjusted when the lots were sold.

Mr. Melisi stated that he has owned the property next to this site for eight years and it was a "dump site". He stated that he paid a lot of taxes for his tenants to overlook this "dump site" and nothing was ever done about it. Now that he owns the property, he feels like he is being penalized because he is expected to replenish and repair all of the damage that the Town has been ignoring for years. Commissioner Kern feels comfortable with the planting plan developed by Soil Science and Environmental Services, Inc. Chairman Vitali stated that this issue with the planting plan should have been settled prior to this meeting.

**MR. KOHAN:                    MOTION THAT APPLICATION #A10-4.3 / 76-90 SOUTH TURNPIKE ROAD BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

**MR. PARENT:                SECOND**

**VOTE:                         UNANIMOUS**

- MR. KERN:**                    **MOTION TO APPROVE APPLICATION #A10-4.3 / 76-90 SOUTH TURNPIKE ROAD WITH THE FOLLOWING CONDITIONS:**
1. **STANDARD S&E CONTROL MEASURES ARE TO BE IN PLACE AND INSPECTED BY THE ENVIRONMENTAL PLANNER PRIOR TO ANY ACTIVITY ON THE SITE.**
  2. **(THE RESPONSIBLE PARTY FOR THE) STORMWATER MANAGEMENT PLANS WILL BE TRANSFERABLE TO THE OWNERSHIP AS THE PROJECT IS DEVELOPED.**
  3. **THERE WILL BE A BOND POSTED FOR LANDSCAPING IN THE AMOUNT OF \$5,000 FOR A THREE-YEAR PERIOD (TO INSURE VIABILITY).**

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

**VOTE:**                                **UNANIMOUS**

**39 MAPLEVIEW ROAD** – Michael Jewczyn – Request for agricultural exemption under Section 4.1.a – (farm pond)

Ms. O’Hare reviewed the Environmental Planner’s Report dated May 28, 2010. She reported that the Applicant plans on submitting a regular application and getting input from the Southwest Conservation District as the proposed activity would not be eligible under Section 4.1.a. The request for agricultural exemption has been withdrawn.

**182 MALTBY LANE** – Todd and Kerry Williams – Request for agricultural exemption under Section 4.1.a – (several)

Ms. O’Hare has visited the site with the Southwest Conservation District and assisted the Applicant with their plan. The District needs another month to finalize the plan. Mr. Williams will be at the July meeting with a finalized plan. Chairman Vitali made it clear that this item is also listed under violations and the Cease & Desist will remain in place at this time.

**#A03-11.2 / 950 NORTH MAIN STREET EXTENSION** – Maplewood Construction Co. – (bond release)

Ms. O’Hare indicated that the bond is not ready to be released.

**#A03-12.5 / 346 EAST MAIN STREET** – Vincent Perretta – (bond release)

Ms. O’Hare indicated that the bond is not ready to be released.

(The Commission took a five-minute break at this time.)

**#A10-4.4 / 865 NO. COLONY ROAD** – Fulton Forbes Inc. – (commercial development)

**#A10-4.5 / 891 NO. COLONY ROAD** – Fulton Forbes Inc. – (commercial development)

Presenting the application was Attorney Dennis Ceneviva, John Whitcom, P.E., and John Mansini, P.E., BL Companies, David Lee, Fulton Forbes.

Attorney Ceneviva stated that there are three parcels to be redeveloped but only two are in front of this Commission. The parcel to the south they are proposing a CVS Pharmacy on 2.6 acres. To the north of that site there will be a 14,476 sq.ft. retail building on 1.96 acres. On 865 North Colony the impervious surface will be reduced by 2/3 of an acre and on 891 North Colony approximately 1/2 acre of impervious surface would be reduced by this proposal. Attorney Ceneviva stated that the stormwater maintenance plan has been submitted to the Commission and infiltration has been increased on the revised plan.

Mr. Whitcom, BL Companies, reviewed the revised plan. The grading and drainage has been modified in front of both buildings. The drainage will flow into vegetated swales for infiltration. The top of the catch basins have been raised in these swales so the first flush, 2-inch storm, is captured in those basins and does not discharge to the state system. The captured water in these swales would be gone within 6-12 hours because of the high permeability rate of these soils. Those soils will allow the swales to be mowed and maintained. The rate and volume of runoff has decreased for all storms. Mr. Whitcom provided revised stormwater management maintenance plans, a summary sheet, and a revised grading and drainage plan, dated June 2, 2010.

Mr. Whitcom stated that silt fencing for the demolition phase would be added to the plan. He explained to Ms. O'Hare that the temporary access plan is going over existing pavement so he doesn't believe any silt fencing is needed.

**MR. KOHAN:**                    **MOTION THAT APPLICATION #A10-4.4 AND #A10-4.5 BE DEEMED NOT SIGNIFICANT ACTIVITIES.**

**MR. PARENT:**                **SECOND**

**VOTE:**                            **UNANIMOUS**

**MR. KOHAN:**                **MOTION THAT APPLICATIONS #A10-4.4 AND #A10-4.5 BE APPROVED WITH THE FOLLOWING CONDITIONS OF APPROVAL:**  
**1. S&E CONTROLS BE INSTALLED AS NEEDED AND INSPECTED BY THE ENVIRONMENTAL PLANNER PRIOR TO ANY ACTIVITY ON SITE.**  
**2. RESPONSIBLE PARTY FOR STORMWATER MANAGEMENT MAINTENANCE PLAN TO BE SUBMITTED FOR EACH LOT PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY.**

**MR. PARENT:**                **SECOND**

**VOTE:**                            **UNANIMOUS**

**#A10-4.7 / 770 CENTER STREET** – Richard & Selma Alves – (yard improvement)

Presenting the application was Richard Alves, owner, and Soil Scientist Tom Pietras.

Ms. O'Hare stated that the owner has been working with the Southwest Conservation District. She reviewed the Environmental Planner's Report dated May 28, 2010. Ms. O'Hare stated that it is up to the Commission to decide how much of the fill that was brought in should be allowed to stay there and how much should be taken out of the wetland area.

Mr. Alves indicated that on May 17<sup>th</sup> he met with Mr. Mrozinski, Southwest Conservation District, again to review his proposal. Mr. Mrozinski determined that Mr. Alves could use turf mats and erosion control blankets along the brook rather than gabions that were discussed at the last meeting. Mr. Alves is proposing to install Mr. Mrozinski's plan for stabilizing that stream bank during the month of August if approved by the Commission.

Ms. O'Hare stated that it is up to the Commission if they would allow the Applicant to leave approximately 22 cubic yards of fill that was brought in and placed in the wetland. Commissioner Kern feels there would be more disturbance if the Applicant has to go back in and remove the fill that was placed there. He feels comfortable with the planting plan that was developed by Mr. Mrozinski and Mr. Pietras.

Chairman Vitali feels that all of this work should be coordinated to be done at the same time rather than doing it piece by piece.

Commissioner Kohan doesn't feel comfortable with the 22 cubic yards of fill that was dropped into the wetlands. Mr. Alves stated that prior to his purchase of the home there was lawn established in that area of wetlands. He indicated that the lawn would start 12 feet away from his property line to create more of a buffer. Mr. Pietras stated that the entire back yard of this property has been manipulated over the years. The main wetland resource out there is the brook. This area where the 22 yards of fill was placed will remain wet because it is picking up seepage off the hillside. Mr. Pietras feels that the area would benefit from shrub plantings.

Chairman Vitali clarified that the Commission would accept the plan for remediation. The area of wetlands will remain as a wetland area with proper wetland vegetation being planted as recommended by Mr. Mrozinski and Mr. Pietras. An erosion blanket would be installed from the crest of the bank to the brook level with wattles and silt fencing would be placed along the bottom of the bank during the work. The planting plan would be installed as recommended by Mr. Mrozinski and Mr. Pietras. The Commission will allow the property to be topsoiled and seeded at the same time as the rest of the work. This remediation package will protect the wetlands and tie them into the abutting property. A shade tree was suggested here.

**MR. KERN:**                    **MOTION THAT APPLICATION #A10-4.7 / 770 CENTER STREET BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

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

**VOTE:**                         **UNANIMOUS**

**MR. KERN:**                    **MOTION TO APPROVE APPLICATION #A10-4.7 / 770 CENTER STREET WITH THE FOLLOWING CONDITIONS OF APPROVAL:**  
**1. THE EASTERN SIDE OF THE WETLAND WILL REMAIN WITH PROPER VEGETATION TO BLEND IN WITH THE ABUTTING PROPERTIES LANDSCAPING.**

2. **THE STREAMBANK IS TO BE RENOVATED ACCORDING TO THE REMEDIATION PLAN DEVELOPED BY THE SOUTHWEST CONSERVATION DISTRICT.**
3. **THE PLANTING PLAN WILL BE INSTALLED WITH ADDITIONAL PLANTINGS IN THE WETLAND AREAS AS DISCUSSED BY THE COMMISSION.**
4. **THE ENTIRE AREA WILL BE TOPSOILED AND SEEDED.**

**MR. PARENT:**           **SECOND**

**VOTE:**                   **UNANIMOUS**

Chairman Vitali indicated that the violation remains in effect until the remediation plan has been completed.

**#A10-4.8 / 250 COOK HILL ROAD – Chris Blanchard – (yard improvements)**

No one appeared to present the application.

Ms. O'Hare reviewed the Environmental Planner's Report dated May 27, 2010. She recommended that the application be approved.

**MR. KERN:**           **MOTION THAT APPLICATION #A10-4.8 / 250 COOK HILL ROAD BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

**MR. KOHAN:**       **SECOND**

**VOTE:**                   **UNANIMOUS**

**MR. KERN:**           **MOTION TO APPROVE APPLICATION #A10-4.8 / 250 COOK HILL ROAD WITH THE FOLLOWING CONDITIONS OF APPROVAL:**

1. **SILT FENCING BE INSTALLED ALONG THE FILL LINE LIMIT AS DEPICTED IN THE PLAN SUBMITTED APRIL 30, 2010, ATTACHED TO APPLICATION.**
2. **ENVIRONMENTAL PLANNER TO BE CONTACTED TO INSPECT PROPER SILT FENCING INSTALLATION IN PROPER VICINITY PRIOR TO ANY FURTHER WORK.**
3. **FILL IS TO BE KEPT OUT OF MATURE TREES ROOT ZONE AREA**
4. **IWWC PLACARDS TO BE INSTALLED IN LOCATIONS TO THE SATISFACTION OF THE ENVIRONMENTAL PLANNER.**

**MR. KOHAN:**       **SECOND**

**VOTE:**                   **UNANIMOUS**

**#A10-4.9 / FIREWORKS ISLAND, QUINNIPIAC RIVER, AND  
COMMUNITY LAKE PARK, HALL AVENUE – Town of Wallingford –  
Park & Recreation Dept. – (two river access trails)**

Presenting the application was John Gawlak, Director, Parks & Recreation Dept., and Project Coordinator Mark Cummings, NRCS.

Mr. Cummings reviewed drawings of the proposed ramps. With the Quinnipiac River ramp the same amount of fill is coming out that is going in. They will be seeking a permit from DEP because they are within the encroachment lines. At the Community Lake site they will be bringing in more fill than what will be coming out. They need more fill to create a safe grade for the launch.

There was some discussion about the Community Lake site. Chairman Vitali asked if the launch was in the channel or the pond. Mr. Cummings stated that it is in the pond. Chairman Vitali doesn't believe that this pond is connected to the water channel. Mary Mushinsky, Quinnipiac River Watershed Association, stated that there is an existing water trail that incorporates this area. She stated that there is a narrow channel that connects the pond to the river but it has to be cut every year to keep it open.

Commissioner Kern is not comfortable with the plans that have been submitted. He would like to see S&E control measures in place, given the soils in the area of Fireworks Island. He wants to see some more details included in the plans. Mr. Cummings would report back to the engineer on the concerns of the Commission. He indicated that the Wallingford Engineering Department has been working with them on this plan. Ms. O'Hare stated that no comments came in from the Engineering Department.

At the Community Lake site, Chairman Vitali would like to see more material dredged out to make the ramp rather than bringing more fill in to create the slope they need.

Mr. Cummings will bring the concerns of the Commission back to the engineer. The Commission would like to see the engineer attend the next meeting if possible. Commissioner Kern would discuss the matter with the Town Engineer before the next meeting.

**#A10-5.1 / 1187 SOUTH CURTIS STREET – Sean Malone – (shed)**

Presenting the application was Sean Malone.

Ms. O'Hare reviewed the Environmental Planner's Report dated May 28, 2010.

Mr. Malone stated that his property has never flooded since he has owned it, which has been approximately 7 years. The shed would be placed on 6 inches of crushed stone and 4x4's. The shed is approximately 10'x 16'.

Ms. O'Hare indicated that, in her opinion, most of the backyard of this site is wetland. She would like to see the shed put in a different location so there is no risk of flooding. She observed flood-borne debris deposited in the proposed shed vicinity. Mr. Malone feels that the shed will be far enough away from the river that it would not be an issue. Mr. Heilman doesn't feel that the proposed placement of the shed would have any detrimental effect on what is there now. Mr.

Malone stated that the shed would be approximately 40 feet from the river. He stated that if the Commission feels more comfortable he could put the shed up on piers.

**MR. KOHAN:**            **MOTION THAT APPLICATION #A10-5.1 / 1187 SOUTH CURTIS STREET BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

**MR. PARENT:**        **SECOND**

**VOTE:**                **UNANIMOUS**

**MR. KOHAN:**        **MOTION TO APPROVE APPLICATION #A10-5.1 / 1187 SOUTH CURTIS STREET AS SUBMITTED.**

**MR. KOVACH:**      **SECOND**

**VOTE:**                **UNANIMOUS**

#### **NEW BUSINESS:**

None

#### **RECEIPT OF NEW APPLICATIONS:**

**#A10-5.3 / 803 NORTH FARMS ROAD** – Toll Brothers, Inc. – (open space subdivision – 29 lots) – presentation  
**#A09-12.4 / 2A RESEARCH PARKWAY** – Practical Energy Solutions LLC modification to permit – wet basin)  
**#A10-5.4 / 1070 NORTH FARMS ROAD** – John Orsini – (commercial development)

Chairman Vitali received the above applications.

#### **REPORTS & COMMUNICATIONS:**

**1. #A05-5.8 / 210 MAIN STREET** – 210 Main Street Realty, LLC – (landscape business; restoration plan)

Not discussed.

#### **VIOLATIONS:**

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

Ms. O'Hare reviewed the Environmental Planner's Report dated May 28, 2010 and her letter dated May 20, 2010 addressed to Ms. Lynne Cooke Andrews. She stated she visited the site today and submitted photos to the Commission. Ms. O'Hare determined that nothing has been done to remediate. Chairman Vitali stated that the Cease & Desist would remain in place. The next step

would be to instruct the Law Department to proceed with enforcement since the deadline has not been met by Ms. Cooke Andrews.

**MR. KOHAN:**                    **MOTION TO HAVE 216 NORTHFORD ROAD – LYNNE COOKE ANDREWS CEASE & DESIST REFERRED TO THE LAW DEPARTMENT FOR ENFORCEMENT.**

**MR. PARENT:**                **SECOND**

**VOTE:**                         **UNANIMOUS**

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

Present was Attorney Janet Brooks, Soil Scientist Tom Pietras, and Art Pires, tenant.

Ms. O'Hare referred to the Environmental Planner's Report dated May 27, 2010. She stated that on May 20<sup>th</sup> there was a site investigation. Commissioner Heilman, the owner, the tenants, Tom Pietras, and Attorney Brooks were in attendance. Three trenches dug by Mr. Pires were then examined by Mr. Pietras. Ms. O'Hare stated that the main focus was to examine those three trenches but they also moved to the driveway turnout area and the driveway entrance. Mr. Pires did not hire a surveyor so Ms. O'Hare had to measure out certain key spots on the property and mark them on the map. Ms. O'Hare pointed out that there is a pending violation, so the Commission must move forward to decide how much fill should be taken out of the site.

Ms. O'Hare referred to the Environmental Planner's Report describing what was found in each trench. She distributed copies to the Commission of a map she had prepared from field work. She stated that the wetland map submitted should have been surveyed information because the wetland flags are not where they are represented on the map. She feels that the wetland flags are correctly tied in the field but they do not match the map that was handed in. Ms. O'Hare stated that there is disturbance between the wetland flag and the limit of disturbance area.

Mr. Heilman reported that that essentially in every place there were at least two layers of fill and in Pit 1 there were three layers. The final layer of fill, that was put on within the last year, was a thin skim coat of red/brown, coarse, gravelly, sandy fill. In all three pits, that fill went right to the end of the pit and to the edge of the wetland, on top of pre-existing fill. Mr. Heilman stated that when you get to the far ends of each of the pits the fill basically meets the wetlands. He doesn't feel that there was any significant amount of fill in the wetlands in this area but it was absolutely in the upland review area. The new fill is on old fill in 99% of the cases. Mr. Heilman stated that there would almost be the same impact on the wetlands if you were to instruct the violator to go in and pull the fill back or remove it. He doesn't feel that removing the fill is going to make any difference to the floodplain or the wetlands that are nearby.

Chairman Vitali feels that the key is that there was fill placed in an upland review area without authorization.

Ms. O'Hare stated that, at the site visit, they also looked at the entrance to the driveway and the driveway turnout. Mr. Pietras clarified that in the area of the former log pile, by the driveway turnout, there is a small area of fill that abuts right up to the wetlands. He stated that the fill in this

area is different than the fill in the area of the dog kennel. He was unable to determine if the fill was placed there in the last year. Mr. Pietras indicated that the fill appeared to be older than one year. It was the opinion of Commissioner Heilman that the material in that area was 1-2 years old based on the fact that there was no mature growth in that area.

The final spot that was examined at the site visit was the driveway entrance. Ms. O'Hare reviewed her comments included in the Environmental Planner's Report dated May 27, 2010 regarding that area.

Chairman Vitali asked Ms. O'Hare what the bottom line was after all of this work and time spent at the site visit. Ms. O'Hare stated that she hasn't taken enough time to prepare the map to show what it needs to show. She feels strongly that, in the future, the Commission should receive a surveyed map. She stated that the map fails to convey that there is wetland filling. She feels that the new wetland filling does not occur inside a trench, it occurs between the end of the trench and the swamp. Chairman Vitali stated that was the purpose for the site investigation. Ms. O'Hare stated that she thought the purpose of the site investigation was for Mr. Pietras to examine the trenches. She went into further detail on why she believes wetlands have been filled. Chairman Vitali stated that it was the function of Ms. O'Hare to prove that the wetlands have recently been filled or disturbed. Ms. O'Hare stated that the focus of the site visit was to examine the trenches to see what was under the surface. Chairman Vitali asked how Ms. O'Hare was going to prove that wetlands have been filled. Ms. O'Hare stated that, with another site visit with Mr. Pietras, she could dig the area between the trenches and the wetland flags that were tied in August. Chairman Vitali doesn't feel that the Commission can make any decisions before Ms. O'Hare can prove that wetlands were recently filled.

Attorney Brooks stated that, in July, Mr. Pires would like to come in front of the Commission with an application to allow the fill to stay at the entrance to the driveway, to allow the log splitting at the driveway turnout, and a modified farming determination of exemption.

Chairman Vitali directed Ms. O'Hare to collect documentation to support her opinion that the wetlands have been filled. Attorney Brooks asked that Ms. O'Hare prepare her report of what she believes is the case and submit it to Mr. Pietras and then he can do another report from there. Ms. O'Hare indicated that she is concerned with cleared wetlands not just filled wetlands. She stated that this would have been a lot less complicated if the site were surveyed back in February when the wetland map was submitted.

Mr. Heilman stated that the only place where he could see any significant new fill into a wetland was near the shed area, Trench 1.

**3. 770 Center Street – Richard & Selma Alves – (filling)**

Discussed earlier.

**4. 182 Maltby Lane – Todd and Kerry Williams – (clear-cutting)**

Discussed earlier.

**ADJOURNMENT:**

Commissioner Parent made a motion to adjourn. The motion was seconded by Commissioner Kohan and passed. The meeting adjourned at 11:15 p.m.

Sonja Vining  
Recording Secretary  
Town of Wallingford  
Inland Wetlands and Watercourses Commission