

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

**REGULAR MEETING
Wednesday, June 3, 2009**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, June 3, 2009, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

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

Acting Chairman Deutsch called the meeting to order at 7:03 p.m.

CONSIDERATION OF MINUTES:

May 6, 2009 - Regular Meeting

Mr. Kohan made a motion to approve the May 6, 2009 – Regular Meeting Minutes. The motion was seconded by Mr. Kern and passed unanimously.

May 13, 2009 – Special Meeting

Mr. Kohan made a motion to approve the May 13, 2009 – Special Meeting Minutes. The motion was seconded by Mr. Heilman and passed. Mr. Kovach abstained from voting.

May 21, 2009 – Special Meeting

Mr. Heilman made a motion to approve the May 21, 2009 – Special Meeting Minutes. The motion was seconded by Mr. Parent and passed. Mr. Kohan, Mr. Kern and Mr. Kovach abstained from voting.

OLD BUSINESS:

#A09-3.2 / OFF TUTTLE AVE & OLD GATE ROAD – Tennessee Gas Pipeline Co. – (pipeline replacement)

Ms. O’Hare reminded the Commissioners of the three Environmental Planner's Reports pertaining to the application dated May 5, May 29, and June 3, 2009.

Presenting the application were Thomas Trask, Tennessee Gas Pipeline Co., Project Manager, Samuel Moffett, URS Corp., John Kennedy, Tennessee Gas Pipeline Co., and Soil Scientist Dave Gordon.

Mr. Trask gave some background on Tennessee Gas Pipeline Co. He discussed the pledge of Tennessee Gas Pipeline to operate and maintain the safest pipeline facilities in the industry. Inspection and cleaning of the pipelines is part of that pledge. This is accomplished through the use of internal cleaning and inspection tools called “smart pigs” that are inserted and removed from the pipeline through the use of launcher/receiver facilities like the one included in this plan presented to the IWWC. The proposed pipeline modifications consist of an 870-foot linear pipe replacement of the Wallingford delivery line from Tuttle Ave. to Old Gate Road. This pipe replacement will allow the installation of a “smart pig” launcher/receiver facility.

Mr. Moffett handed out a packet of materials discussed in his presentation. He stated that this project has been designed to avoid, minimize, and mitigate impacts to wetlands and watercourses in Wallingford. There are two intermittent streams and one perennial stream that would be crossed with this project. The project will be the replacement of an existing 6” natural gas pipeline with a 12” pipeline in the same trench and same location. There will also be the construction of a “smart pig” launcher/receiver facility on the eastern end of the project. The project includes the work within the existing R.O.W., the expansion of the existing R.O.W. by approximately 5 additional feet on either side, and work in some temporary work areas. There will be a staging area located off of Old Gate Road and an access roadway on the Town property. The erosion barrier will consist of staked hay bales and silt fencing. The amount of wetlands that will be temporarily altered would be approximately 8,225 sq.ft. There will be timber mats in place to provide a platform for construction equipment. Mr. Moffett described in detail the trenching process for this project.

Mr. Moffett stated that there would be dewatering of the trench if conditions are wet at the time of construction. An independent environmental inspector is being retained by Tennessee Gas throughout the entire project and will be on site.

On the eastern end of the project area there will be the launcher/receiver facility for the “smart pig”. There is also a dewatering structure that is proposed at that location.

The access way to the site off of Old Gate Road currently straddles the property line between the Town property and the private owner next door. As a courtesy to the Town this project will shift this access way off of the private property and move it entirely onto the Town property.

The existing trench has approximately 3 feet of cover over the pipe, as required. They plan to maintain that depth of cover. The trench will be excavated using a backhoe. The entire pipe segment will be exposed and removed before beginning the laying of new pipe. Before the trench is dug the erosion barrier will be installed and it will last throughout the duration of the project and will not be removed before they are told they can do so.

Mr. Kennedy stated that routine mowing of the pipeline area is normally done every five years. If they see a problem before that, they will come in and take care of it.

Ms. O'Hare reviewed the planting plan, requested by the Conservation Commission, that is designed to screen the launcher/receiver facility. Almost all of the proposed plantings are in the regulated area. Mr. Moffett discussed how the planting plan came about. The ROW needs to be maintained free of vegetation so there will be no vegetation along the western end of the launcher/receiver facility.

Mr. Gerry Farrell, Sr., Assistant Town Attorney, was present and indicated that regarding the proposed easements, those have been worked out with the Water & Sewer Division and there seems to be agreement on how they will be written.

MR. KERN: **MOTION THAT APPLICATION #A09-3.2 / TENNESSEE GAS PIPELINE COMPANY BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

MR. KOHAN: **SECOND**

VOTE: **UNANIMOUS**

MR. KERN: **MOTION THAT APPLICATION #A09-3.2 / TENNESSEE GAS PIPELINE COMPANY BE APPROVED WITH THE FOLLOWING CONDITIONS OF APPROVAL:**

1. **ALL S&E CONTROL MEASURES BE INSTALLED AND INSPECTED BY THE ENVIRONMENTAL PLANNER PRIOR TO ANY ACTIVITY ON SITE.**
2. **LOCAL INDEPENDENT ENVIRONMENTAL INSPECTOR IS TO BE IDENTIFIED AS THE RESPONSIBLE PARTY RELATIVE TO THE MONITORING OF EROSION CONTROL MEASURES FOR THE ACTIVITIES AND THE NAME AND CONTACT INFORMATION IS TO BE PROVIDED TO THE ENVIRONMENTAL PLANNING OFFICE PRIOR TO COMMENCEMENT OF ANY ACTIVITY ON THE SITE AS WELL AS CONTACT INFORMATION FOR LOCALLY-BASED SITE PERSONNEL REPRESENTING THE PERMITTEE.**
3. **ENVIRONMENTAL PLANNER TO BE CONTACTED FOUR (4) DAYS PRIOR TO COMMENCEMENT OF ANY ACTIVITIES.**
4. **EROSION CONTROL MEASURES TO BE INSTALLED AND THE ENVIRONMENTAL PLANNER TO BE CONTACTED FOR AN INSPECTION PRIOR TO PROCEEDING WITH FURTHER ACTIVITIES.**
5. **ENVIRONMENTAL PLANNER IS TO BE CONTACTED TO INSPECT INSTALLATION OF DEWATERING FACILITIES IN PLACE PRIOR TO COMMENCEMENT OF FURTHER STREAM CROSSING ACTIVITIES.**
6. **AS A MITIGATION, APPLICANT WILL REMOVE (HAND-REMOVAL) THE EXISTING SMALL AREA OF SLASH LOCATED IN AREA NEAR THE BASE OF THE PROPOSED PERMANENT ACCESSWAY ON TOWN PROPERTY.**

7. ALL VEGETATION REMOVED FOR PERMITTED ACTIVITIES WILL BE REMOVED OFFSITE.
8. REVISED PLAN TO DEPICT ACCESS ROAD (UNIMPROVED) TO EXTEND BEYOND THE IMPROVED PORTION OF THE PROPOSED PERMANENT ACCESSWAY EASEMENT TO ALLOW TOWN TO ACCESS SEWER LINE.
9. PLANTING PLAN TO BE INSTALLED (BY FALL 2009) IN AN AREA DEPICTED ON APPLICANT PLANTING PLAN, SUBMITTED JUNE 2, 2009, (AS MODIFIED PER LATEST SUGGESTIONS OF CHAIRMAN BORNE, CONSERVATION COMMISSION), TO PROVIDE SCREENING IN THE AREA OF THE RECEIVER-LAUNCHER FACILITY. DISTURBED UPLAND SOILS AND DISTURBED WETLANDS SOILS ARE TO BE ROUGH-GRADED AS NEEDED AND STABILIZED RESPECTIVELY WITH NATIVE SEED MIX, "NEW ENGLAND CONSERVATION/WILDLIFE MIX" OR "NEW ENGLAND WETMIX" (AVAILABLE FROM NEW ENGLAND WETLAND PLANTS, INC. OR LIKE SOURCE). REVISED PLANTING PLAN TO BE SUBMITTED WITHIN A WEEK.
10. THE SCCRWA SHOULD BE NOTIFIED AT LEAST THREE DAYS IN ADVANCE OF PROPOSED STREAM CROSSING, AS REQUESTED IN ITS REPORT.

MR. KOHAN: SECOND

VOTE: UNANIMOUS

#A04-8.4 / 1425 TUTTLE AVENUE – W&W Properties (aka Gaylord Farms Road – Cheshire Crossing – Pulte Homes) – (release of bond)

Ms. O'Hare referred to the Environmental Planner's Report dated May 29, 2009. She stated that there are a few outstanding issues to be resolved. The bond is not ready to be released.

#A07-11.1 / 135 FAWN DRIVE – Fawn Drive Associates, LLC – (permit commencement extension)

Ms. O'Hare referred to the Environmental Planner's Report dated May 29, 2009. She met with Attorney Janis Small on this matter and Attorney Small issued a memorandum dated May 22, 2009. Mr. Parent submitted an opinion letter dated May 12, 2009 and both documents were in the packet.

Mr. Kern indicated that after reading all of the legal opinions he would feel comfortable moving forward with this application and granting the one-year extension.

Ms. O'Hare stated that there has been a change on the site a split-rail fence has been installed along the road. She submitted photos of the new fence which was installed out of the regulated area.

KERN: **MOTION THAT APPLICATION #A07-11.1 / 135 FAWN DRIVE BE GRANTED A ONE-YEAR EXTENSION OF THE PERMIT COMMENCEMENT DATE FROM MAY 7, 2009 TO MAY 7, 2010.**

PARENT: **SECOND**

VOTE: **UNANIMOUS**

#A09-3.1 / 8 & 9 ATWATER PLACE / QUINNIPIAC RIVER– Howard Lohman, Sr. – (industrial development – contractor storage units) – **WITHDRAWN**

Ms. O'Hare stated that the Applicant had revised the plan and there is going to be conventional paving with an infiltration system underneath that connects to the storm water system. Because of this change, a wetland permit is not longer needed because the area of proposed paving falls below the 20,000 sq.ft. of new parking area which would trigger a permit.

NEW BUSINESS:

#A08-4.2 / 930 SOUTH COLONY ROAD / WHARTON BROOK – Docker Development, LLC – (permit commencement extension)

Representing the Permittee was George Cotter, OCC Group.

Ms. O'Hare indicated that there was a request for a one-year permit commencement extension. She visited the site and found a substantial change in the property and an enforcement issue. Ms. O'Hare submitted photos of the property that depicts many erosion problems within the regulated area. One of the conditions of the original permit was that the ATV trails would be repaired and planted. Ms. O'Hare indicated that currently there are many more ATV trails than back when the original permit was granted and the consequent erosion is severe.

Mr. Cotter gave some history on the application. The subdivision plans were not filed until recently with the Planning Dept... This site is now a permitted subdivision. Now there is a need to extend the wetlands permit for one year. Mr. Cotter acknowledged that there has been an increase in ATV activity. The owner has been in contact with the Legal Department and also with Ms. O'Hare. There were suggestions made as to how to stop the ATV problem. The owner has followed some suggestions and is in the process of following others. It is the feeling of the owner and Mr. Cotter that the one thing that will stop that ATV activity is the construction activity and development of this site. The Permittee is willing to go into those areas that have been damaged, upon completion of site work, and reestablish them with topsoil and seed. Any activities done on a temporary basis will not be effective because the activity through the property cannot be controlled. The only answer is extending the permit and going in and beginning construction activity and development. Without that, he said, there is really nothing the owner can do to stop this activity.

Mr. Cotter indicated that all of the areas that were damaged by the ATV activity would get topsoil and seed once lot construction is complete. He understands that there are now more areas to be repaired than when agreed upon in the original permit.

Mr. Heilman agreed that the most effective deterrent to the ATV activity would be to get development activity going and get people living there.

Mr. Cotter could not give a definite start time for the construction activity.

Ms. O'Hare brought up the issue of the time frame for these ATV trails to be remediated. Is the IWWC asking for correction within one year, or, would the Permittee have four more years under the original permit to take care of the on-going erosion problem? Mr. Kern asked Mr. Cotter if he would feel comfortable placing some riprap in those areas to stop further erosion. Mr. Cotter stated that there is no erosion going down into Wharton Brook. There is some scour and on the lower plane and now it is very sparsely vegetated. He believes that as soon as the ATV activity can be stopped, the area will revegetate itself.

Ms. O'Hare suggests perhaps installing check dams and some straw mulch. She would like to talk to an expert to see what would be suggested. Mr. Heilman suggested that any property completed to the point where landscaping is to begin, could also have any erosion issues repaired at that time. Mr. Cotter stated that he would agree to a condition that, as a lot is completed, the area adjacent to that lot that has any disturbance would be rectified at that time. As they complete the lots, they would complete the remediation of the ATV tracks. Once there is a homeowner on the lot, and the lot is stabilized, the activity could be better controlled.

Ms. O'Hare stressed how important it is to stay on top of this ATV activity. Anytime the owner, who owns "Chefs" on an abutting property, hears them, the owner should call and report the activity so the police can establish a pattern and take care of it. Mr. Cotter assured Ms. O'Hare that the owner is aware of the problem and will be activity pursuing it.

Mr. Kohan is fine with the permit being extended but he does feel that this falls under a violation. He thinks that the owner should install some check dams with riprap. Mr. Heilman would not object to the installation of the check dams, but he is not sure that is the answer. He has a concern that if one area is blocked, then the ATV riders would start on a new area. Ms. Deutsch feels that the best answer is that as a lot is completed, the disturbances on that lot are then remediated.

Ms. O'Hare asked for some clarification since it is her job to enforce the conditions of approval and, typically, erosion is remediated right away through enforcement. Also, if a lot is sold in its undeveloped state, it seems that the erosion will not be remediated. Mr. Heilman suggested that the wording state that any erosion issues, including those created by ATVs on the property, would be remediated upon completion of a unit. The Wetlands office should be informed to inspect the completed activity. Upon subsequent units being completed, past units should be reinspected. Mr. Cotter indicated that if a lot is sold prior to development, the Permittee has agreed to come in, after the house is built, and remediate those eroded areas if the new owner does not do so.

KERN: **MOTION THAT APPLICATION #A08-4.2 / 930 SOUTH COLONY ROAD
HAVE THE PERMIT COMMENCEMENT DATE EXTENDED BY ONE**

YEAR. WHEN DEVELOPMENT IS COMPLETE AND LANDSCAPING HAS BEGUN ON A LOT, ALL OF THE EROSION ISSUES RELATED TO CONSTRUCTION OR ATV ACTIVITY WILL BE REMEDIATED AT THAT TIME ON THAT LOT.

PARENT: **SECOND**

There was discussion of the motion.

VOTE: **UNANIMOUS**

#A04-4.1A / 1363 DURHAM ROAD – Lisa Carrara and Loriann Andrews
– (release of bond)

Ms. O'Hare stated that the bond should be released on this property.

KERN: **MOTION THAT APPLICATION #A04-4.1A / 1363 DURHAM ROAD HAVE THE BOND RELEASED AS RECOMMENDED BY THE ENVIRONMENTAL PLANNER.**

KOVACH: **SECOND**

VOTE: **UNANIMOUS**

#A09-6.1 / 8 RYAN DRIVE – Danny & Leonor Hall – (yard & pond improvements)

This site is listed both under New Business and Violations. The IWWC would be discussing both issues at the same time.

Presenting the application was the Applicant, Danny Hall, and his contractor Jason Prescott.

Ms. O'Hare stated that there was a Special Meeting of the IWWC on May 21, regarding a violation on the site. There had been clearing of vegetation around the pond and disturbance of the soils and the outlet of the pond. In the new application, they propose a patio, doing some maintenance in the area, the remediation work with plantings and installation of an aerator pump in the pond.

Mr. Hall stated that he wanted to clean up around his pond area. He wanted to remove some brush and small trees and install an aerator pump to sustain the fish in the pond. Mr. Hall is looking to enhance the area. Mr. Prescott reviewed the planting plan. The proposed patio would be approximately 18 feet from the incoming stream to the pond. The patio would be approximately 16' x 16' built with patio block on top of ¾" rock.

Mr. Heilman indicated that any activity around the pond would be considered remediation under the violation and anything to do with the cleaning of the stream channel and building the patio would be under the new application.

Ms. Deutsch clarified that the planting around the pond and the installation of the aerator pump can move forward at this time. The cleaning of the Town easement can also begin. Action on the new application would be at the July meeting.

#A07-8.4 / 890 NORTH COLONY ROAD – 890 North Colony Road,
LLC (modification to permit)

Ms. O'Hare indicated the Applicant will present at the next meeting. The IWWC inquired as to the proposal. Ms. O'Hare stated that due to a use change, more parking required for this site so the Applicant is proposing to modify the permit. They would like to convert the approved small detention basin to parking and install a subsurface infiltrator system to handle the storm water.

There was some discussion about a modification of permit versus considering it a new application. At this time this application is being treated as a modification to permit.

#A09-6.2 / RESKIN DRIVE – Town of Wallingford – (bridge
replacement)

Acting Chairman Deutsch received the application. The Engineering Department will present at the July meeting.

#A09-6.3 / 134 GROVE STREET EXTENSION – Edward Beauvais –
(residential lot)

This site is listed under Violations as well as New Business.

Ms. O'Hare stated that the plan submitted yesterday is not yet complete. The watercourse is missing from the plan and the septic system has been moved. Under the violation, the Commission could order removal of the unpermitted fill, or, it could wait and approve the filling as part of the proposed lot development. The application is asking for driveway improvements, grading, and for the roof drain and the footing drain to discharge down the side of the driveway.

Mr. Kern asked if Ms. O'Hare has pulled the original plan to make a comparison. Ms. O'Hare stated that a copy of the original plan has never been submitted. Mr. Kern stated that she should get a copy of that plan so the Commission can look it over and compare it with what is proposed at this time.

VIOLATIONS:

1. 134 Grove Street Extension – Edward J. & Doreen Beauvais – (cease & desist – filling)

Discussed earlier. The Cease and desist order remains in effect.

2. 8 Ryan Drive – Danny & Leanor Hall – (alteration of wetlands)

Discussed earlier.

REPORTS & COMMUNICATIONS:

1. DEP Permit Application for the Use of Pesticides in State Waters – Fieldstone Farms pond

Ms. O'Hare stated that the IWWC has the ability to comment to DEP on this application or any other DEP pesticide application. Mr. Kern asked Ms. O'Hare to find out why the common open space field is only being groomed biennially. He is concerned about invasive species in the area and would like to see the area mowed once a year.

2. DEP IWWC Training Workshop, May 27 – staff report & handouts

The workshop would be discussed at the July meeting at the request of Ms. O'Hare.

3. #A05-10.2 / 110 Leigus Road – Workstage-Connecticut, LLC – (maintenance)- Commissioner

Heilman visited the site with Ms. O'Hare about one month ago. Mr. Heilman stated that there has been a lack of mowing that has caused a backup of water into the abutting residential properties. Mr. Heilman reported that the hydroseeding that had been done a year ago really did not take on those large piles of fill that are on the site. He did not see any evidence of any significant erosion coming off of those piles to the wetlands. The pre-treatment pond and the swale there are being maintained. The water quality in that pond was good at the time of the site visit. Mr. Heilman stated that the overall site has been maintained. At this point, he believes there is no damage being done to the wetlands.

Ms. O'Hare reported that she received a submittal from Attorney Joan Molloy today representing the owner. She read the letter into the record. The letter indicated that she, Attorney Molloy, has contacted the contractor and he has told her that he can mow the field as soon as he is contacted by the owner, Workstage-Connecticut. The letter also states that the "swale cleaning and additional sedimentation controls can be completed by June 12, 2009".

Bob Heilman, 26 Leigus Road, abutting property owner, submitted photos of the site to the Environmental Planner office which he reviewed for the Commission. Mr. Bob Heilman visited Ms. O'Hare one month ago to review the issues on this site. He stated that there are issues that were agreed to by the owner that have not been done. Mr. Heilman wanted to know what the IWWC is going to do when 30 days from now this maintenance work is not done.

Mr. Kern feels that the IWWC should respond to the letter from Attorney Molloy with a letter. The IWWC should relay to Attorney Molloy how crucial it is that someone gets out there between now and the 12th of June to do what she said will be done. Mr. Kern suggested to Ms. O'Hare that she check with the Law Department to see if the IWWC can pull the bond if the work is not done within a certain period of time to have the work done by a contractor of its choice.

Mr. Heilman agreed that if the work is not done by the 12th of June the bond should be pulled to cover the cost of having the fields mowed and the swales located by the abutting property maintained.

Mr. Kohan suggested that if the bond money is going to be pulled some of it be spent on hiring someone like Roman Mrozinski to monitor the site and report back to the Commission.

Acting Chairman Deutsch agreed that Attorney Joan Molloy should be notified that the owner has until June 12, 2009 to complete the work. If the work is not done by the 13th of June, the IWWC should start looking into calling in the bond.

Mr. Bob Heilman stated that the overgrown grass has also become a safety and fire hazard to his property. He just can't understand how this site has gone on year after year with all of the outstanding issues it has had with no action taken by the Commission.

MR. HEILMAN: **MOTION THAT ON APPLICATION #A05-10.2/110 LEIGUS ROAD THE OWNER BE GIVEN UNTIL JUNE 12, 2009 TO COMPLETE THE MAINTENANCE WORK ON THE SITE. THE MAINTENANCE WORK IS TO INCLUDE THE MOWING OF THE FIELDS, THE CLEANING OF THE SWALE AND THE ADDITIONAL SEDIMENTATION CONTROLS. IF BY THAT TIME THE MAINTENANCE HAS NOT OCCURRED, THE IWWC WILL PERSUE THE PULLING OF THE BOND TO COVER THE COST OF HAVING THE WORK DONE IF POSSIBLE.**

Ms. O'Hare clarified that the letter from Attorney Joan Molloy did not state that all of the work would be done by the 12th of June. It states that the swale cleaning and the additional sedimentation controls would be done by the 12th of June. Ms. O'Hare stated that the letter indicates mowing of the field would take place "as soon as he is contacted by my client and weather permitting."

MR. KOHAN: **SECOND**

The Commission directed Ms. O'Hare to get the letter out to Attorney Molloy on June 4, 2009.

VOTE: **UNANIMOUS**

4. 252 Main Street, Yalesville – L&J Partnership, LLC – (cease & desist)

Ms. O'Hare stated that a letter was received from the Marla Butts, Enforcement, DEP, and submitted to the IWWC for their information which essentially grants an approval for the same plan IWWC approved recently. There is no action to be taken.

Ms. O'Hare reported that the dredging project for Mackenzie Reservoir has begun.

Ms. O'Hare stated that the Commission would soon be seeing the property at 5 Megan Lane on the agenda. This was an open space subdivision. The owner of this site has used the open space to plant an extensive garden. The owner has already been told once to stay out of the open space but now spring is here they have chosen to go back in and plant a garden. Ms. O'Hare is working on this matter and will keep the Commission up to date.

REGULATIONS REVISION:

1. Discussion of draft provisions

At the request of Acting Chairman Deutsch, Ms. O'Hare put together a chart to make it easier for the IWWC to keep track of the progress of regulation revisions of the Regulations. It was circulated. Acting Chairman Deutsch asked Ms. O'Hare to send the Law Department a request to review the DEP Model Regulations as the IWWC has agreed these revisions will be proposed. There was discussion of how to go about revising the regulations as far as doing a public hearing on all of the changes or doing several public hearings.

A member of the public, Mr. George Folds, indicated he was formerly on the IWWC in Chester, Connecticut. He gave some helpful input on the process of updating wetland regulations.

ADJOURNMENT:

Mr. Kern made a motion to adjourn the meeting. The motion was seconded by Mr. Kohan and passed. The meeting adjourned at 9:55 p.m.

Sonja Vining
Recording Secretary
Town of Wallingford
Inland Wetlands and Watercourses Commission
June 3, 2009