

WALLINGFORD INLAND WETLANDS & WATERCOURSES COMMISSION

WEDNESDAY, DECEMBER 2, 2015

ROBERT EARLEY AUDITORIUM, TOWN HALL

45 SOUTH MAIN STREET, WALLINGFORD, CT

7:00 p.m.

MINUTES

The Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission was held on Wednesday, December 2, 2015, in Council Chambers, Town Hall, 45 South Main Street, Wallingford, CT.

Seated Commissioners were: Chairman Jim Vitali; Vice-Chair David Parent; Nick Kern, Secretary, Dennis Murphy; Deborah Phillips; Alternates Jim Heilman, Daryll Porto and Michael Caruso; Erin O'Hare, Environmental and Natural Resources Planner.

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

Voting members were: Vitali, Kern, Phillips; Murphy, Parent.

CONSIDERATION OF MINUTES

1. Regular Meeting, Nov. 4, 2015

Ms. O'Hare noted that on page 18, the motion to change the July 20th, 2016 meeting should be "a motion to change the July 6, 2016 meeting to July 20, 2016".

On page 8, concerning Amazon's request for an administrative approval, Ms. O'Hare explained an administrative approval was not needed, which is correct as was typed in the Minutes, but Ms. O'Hare explained she went back and corrected herself that the 1,100 sq. ft. of the surface area is not in the upland review area. She said if the 1,100 sq. ft. was in the upland review area, Amazon would have needed an administrative approval. She said when the Commission went on to the next agenda item, she said she interjected that she had misspoken about Amazon. Ms. O'Hare said there should be a sentence in the paragraph to reflect this.

**MR. PARENT: MOTION TO APPROVE THE REGULAR MEETING MINUTES OF
NOVEMBER 4, 2015 AS AMENDED.**

MR. MURPHY: SECOND

**VOTE: KERN-YES; MURPHY-YES; PHILLIPS-YES; PARENT-YES;
VITALI – YES.**

OLD BUSINESS - None

NEW BUSINESS – None

Chairman Vitali asked what New Business meant. Ms. O'Hare explained that New Business is for requests, extensions or clarifications.

RECEIPT OF NEW APPLICATIONS

1. **#A15-11.1/102 Harrison Road** – James Iannini – (revision to permit to allow additional fill & modification of condition of permit approval re: shrub installation) – Received by Chairman Vitali.

Ms. O'Hare said the Applicant will present at the January meeting. Chairman Vitali asked why this request was on the agenda. Ms. O'Hare said this permit was approved last spring and one of the conditions of approval is that 15 shrubs are to be planted. Ms. O'Hare said the Applicant believes everything is fine the way it currently stands and doesn't want to plant the shrubs adding that the Applicant believes the soil will become compacted from the planting.

Chairman Vitali asked for Ms. O'Hare's opinion on this matter.

Ms. O'Hare said she will recommend in January this application be denied and the shrubs should be planted.

2. **#A15-11.2 /610 Rear South Elm Street** - Joaquim Goncalves - (filling for driveway expansion and paving) – administrative approval request.

Chairman Vitali said the extending of the driveway needed a permit. Ms. O'Hare said this has been taken care of with an administrative approval as discussed at the last meeting. She said there are still other issues with the property, but the driveway issue has been resolved.

3. **#A15-11.3/1303 Durham Road** – Henry Woronick – (pond dredging, tree removal & yard grading) – Received by Chairman Vitali.

Ms. O'Hare said she received a complaint, went to the site, and saw that trees had been cut down. Ms. O'Hare said the Applicant agreed to submit an application. She said Mr. Woronick is preparing to dredge the pond in the spring, but everything has been submitted in a new application and she has referred him to the Southwest Conservation District regarding the pond.

4. **#A15-12.1/70 North Plains Industrial Road** – Cariatti Developers – (additional surface area – parking) – Received by Chairman Vitali.

Ms. O'Hare said this application is in front of Planning & Zoning. She said she requested square footage because the surface area for parking is over the threshold which requires a wetlands permit which has been filed. Ms. O'Hare said Planning & Zoning involves a change of use inside the building and new parking. Mr. Kern requested to see a water/oil separator program which is indicated is in the parking lot,

and a maintenance program. Chairman Vitali said it was important to find out about this water/oil separator system.

5. **#A15-12.2/29 Research Parkway** – Amazon.COM.DEDC – (additional surface area – parking) – Received by Chairman Vitali.

Ms. O'Hare said this will be Phase 2 which will be a larger site improvement.

6. **#A15-12.3/14 Fairfield Boulevard**-Davenport Associates – (industrial development) – Received by Chairman Vitali.

Ms. O'Hare said the Commission approved something for this site several years ago, but noted this was a new building which will be approximately 80,000 square feet.

REPORTS & COMMUNICATIONS

1. Staff Report

Ms. O'Hare discussed the memo she sent to Corporation Counsel Janis Small looking for an opinion regarding the statement made by Wetlands Expert James Sipperly, who was here with the Pocobello site, who stated if the IWWC doesn't act, the application would be automatically approved as is the case with Planning & Zoning. Ms. O'Hare said the Law Dept. has agreed with her statement that the application is not approved, it just goes away. She noted the Law Dept. stated they would prefer the IWWC take some sort of action and not let the application lapse.

Ms. O'Hare said she and several staff members attended a "Records Retention Training Seminar". She said she will draft a memo to the Commission stating what has to be done by law, and what records have to be kept by law pertaining to IWWC. Ms. O'Hare said emails were also discussed at the seminar on Nov. 30.

Chairman Vitali asked what would happen to all the maps from 1988.

Ms. O'Hare said she has to go on-line to answer because it was indicated that all departments have different regulations. Chairman Vitali asked if all the maps generated are being saved in electronic memo. Ms. O'Hare said there could be four maps of the same property in different departments, noting there must be co-ordination so as not to overlap.

Chairman Vitali said he prefers to save all of the maps. Commissioner Heilman suggested having someone digitize the maps in high resolution so as to save space. Ms. O'Hare said scanning was discussed at the seminar.

Ms. O'Hare said she will present a draft copy of the proposed IWWC regulations at the January meeting.

Chairman Vitali discussed "after the fact" permits. He said it is akin to absolution and stated he didn't believe this is the IWWC intention. He referred to correspondence from the Law Dept. which suggested a possible \$1,000 fine for "after the fact" permits.

Ms. O'Hare talked about considering a "certificate of permission" as was done in Middletown.

Commissioner Parent said it is not “absolution” but ratification, and noted this “after the fact” has always been aggravating because people come in after they are caught, stating they didn’t know the rules and they have spent a lot of money, putting pressure on the IWWC. He presented a scenario that if this “after the fact” was treated as a new application, would the IWWC have been approved it if it came out in time. He said he liked the idea of a fine for an “after the fact” application.

Commissioner Heilman said fines serve a purpose, but cautioned about setting a precedent. He said it is vital that the IWWC uphold their Regulations, but when things slip by because of hardship sake, an injustice is done to everyone and the integrity to the IWWC is jeopardized.

Commissioner Parent suggested putting a lien on the property noting that if someone wanted to ignore the IWWC, the property would have to be cleared before it could be sold. He said this would gain the attention of the property owner. He said he doesn’t want people getting the idea that they don’t have to pay attention to the IWWC if they don’t chose to.

Chairman Vitali said this is probably where the IWWC has been the weakest in bonding all of the conditions of approval. He said there have been projects where the IWWC has spent much time trying to protect the wetlands, and have virtually been laughed at by developers. He said there aren’t many land use boards that don’t have bonds on just about every application and said this could be initiated immediately. Chairman Vitali said there is also a question on where the collected fines would go; back into the General Fund, or earmarked for environmental remediation.

2. CACIWC – 38th Annual Meeting & Environmental Conference – Nov. 14, 2015 –attendee reports and hand-outs – not discussed.
3. Notice of DEEP National Pollutant Discharge Elimination System (NPDES) Permit Renewal Application – Allnex USA, Inc., regarding discharge of fire suppression test water and treated wastewater including process waters, groundwater, landfill leachate, storm water, and domestic sewage from Allnex facility, 528 South Cherry Street, to Quinnipiac River; dated Oct. 30; received Nov. 5, 2015 – not discussed.

VIOLATIONS

1. **3 Powers Road** – Notice of Violation – Dave Woronick, Greene D. H. Woronick – unpermitted, unauthorized clearing in upland review area.

Ms. O’Hare said she has received no response.

2. **610 Rear South Elm Street** – Notice of Violation – Joaquim Goncalves – (several)

Ms. O’Hare said the driveway issue has been taken care of. She said Chairman Vitali at the last meeting, made clear the pool and deck and the concrete dog kennel and shed, which were all installed without a permit, are all pending.

Commissioner Kern asked what type of correspondence Ms. O’Hare had with the violators. He said he believed Ms. O’Hare was going to contact them.

Ms. O'Hare said Mr. Goncalves came into the office after the last meeting, applied for a driveway permit, which received Administrative Approval, and paid his fee.

Commissioner Kern asked Ms. O'Hare what type of correspondence was sent to the violators informing them of tonight's meeting.

Ms. O'Hare said she didn't put anything in writing; he was told in person to attend the meeting, and added, he received the Notice of Decision a few days after the meeting. Ms. O'Hare said she also left a phone message for Mr. Goncalves to attend tonight's meeting.

Chairman Vitali said he believed there was some work to be done with the Building Dept. regarding the coordination issue.

Ms. O'Hare noted she spoke to Water & the Electric Division who said their line doesn't go under the pool and deck.

3. **640 South Elm Street** – Notice of Violation - Michael Crocker – (removal of vegetation and soil from wetlands, stream channelizing, deposition of soil, stone, and materials in stream, wetland, and upland review area).

Appearing in front of the Commission was Michael Crocker, owner, 640 South Elm Street.

Ms. O'Hare went over her Notice of Violation letter. She said she originally received a paving of a driveway complaint regarding 610 Rear South Elm Street. She said when she arrived at the site, she had to go through a Right-Of-Way which she noticed had been improved from its original dirt and gravel state, noting it is wider, has crushed stone and goes all the way down to both 610 Rear and 640 South Elm Street.

Ms. O'Hare said both properties access their homes over this driveway easement. She said she not only noticed the crushed stone had improved the entire driveway on both properties, but it also expanded out towards Wharton Brook. She said there is stone by the banks and the lower vegetation was gone. Ms. O'Hare said there was also a mulch pile, a dumpster 10 ft. from the river and logs being cut for cordwood. Ms. O'Hare said she noticed the swale, which used to be wet every time she went out there, had been cleared and widened and is now around 10 ft. wide. She said large rip rap had also been installed in the swale on the 640 South Elm Street property and 10 ft. onto the 610 Rear South Elm Street properties. She said all of these described activities needed a permit, thus the Notice of Violation letter which was sent out on Nov. 24, 2015 to Mr. Crocker.

Ms. O'Hare said when she went to the site this week, she noticed more work had been done.

Mr. Crocker explained that most of the work was done because of water backing up which would puddle and create huge pools of water for months, creating mosquito problems and stagnation. He said the dumpster and log piles have recently been moved from the area and the mulch pile and debris are 90% removed. He pointed out that some of the vegetation which was removed will be replaced by new shrubbery. He said the driveway has been there for many years and noted that no one takes care of the Right-Of-Way, so through the years he had taken on that task because the neglect had created giant

potholes all the way down the entire driveway and in the treed area. Mr. Crocker said he has spent money installing process, but finally installed larger stone. He said he didn't realize he had widened the area and was told it was supposed to be 12 ft. and may be slightly wider.

Mr. Crocker said he would get water in the basement, and solved that problem but noted water seeps on his grass. He said there is a 12 to 15 inch tube on the far side of the property which is supposed to drain the water from several other yards. He said all of the water from other properties collects on his property until it gets high enough to reach the drain.

He said during a drought, there were still times there would be at least one inch and a half of water. He said the biggest reason he did what he did was because of this and didn't realize he needed permits for the woodpile and dumpster. He said all of this is gone and he won't be using that property anymore.

Chairman Vitali pointed out what Mr. Crocker described exactly what a wetland does. He said he found it interesting that Mr. Crocker was in a sandy plain and was surprised there was standing water. He said it was hard for him to accept Mr. Crocker didn't know permits were needed, when IWWC was down there before.

Mr. Crocker said he realized he needed a permit to dig in the backyard, but didn't realize he needed a permit to move trees and shrubbery or add gravel to his driveway, which he emphasized was not altered.

Chairman Vitali asked about the rip rap on the stream bank.

Mr. Crocker said the rip-rap was in his backyard; the gravel left over from the driveway got spread wider over to the streambank.

Chairman Vitali asked what happened to the vegetation on the streambank.

Mr. Crocker said it was vines and poison ivy and noted some of it is still on the western side, in the FEMA floodway.

Commissioner Heilman said Mr. Crocker described what wetlands are and that it serves a function in nature. He pointed out the vegetation which was removed helped in eliminating the puddles which now form on Mr. Crocker's property.

Mr. Crocker said to him, it was unclear on the site map where the wetlands were located.

Ms. O'Hare said she used the OCC base map and noted they had stopped the wetlands at the property line; they just did it for 610 and she extrapolated what she remembered for 640 but said a certified soil scientist could tell where the wetland line was. She said all of the area was disturbed.

Chairman Vitali said he noticed the wetland line seemed to be a few feet off the flow of the water. He showed Mr. Crocker the map with the wetland flags.

Ms. O'Hare noted this area is a Floodway and this is something the Planning Dept. is looking at to see what can stay and what has to go, stating that a dumpster cannot be put in a Floodway, where the water rips in

a flood. Ms. O'Hare suggested the Commission do a site visit to 610 Rear South Elm Street and 640 South Elm Street to observe the violations on both properties.

Commissioner Kern asked about the culvert behind Mr. Crocker's house.

Mr. Crocker said this culvert eliminated the stagnant water. He said the culvert drains under the road which was installed when the house was built. He said the culvert is approximately 10 ft. wide. He said the water transfers through the culvert. He said the drainage ditch was already there, he just made it functional.

The Commission agreed to TABLE this item to the next meeting and conduct a Special Meeting site visit next Wednesday at 1:30 p.m.

ITEM TABLED TO THE JANUARY MEETING

4. **22 Masonic Avenue** – Cease & Correct Order – Masonicare at Ashlar Village, Inc. – (uncontrolled erosion and introduction of sedimented flows into unnamed watercourse on Town property)

Appearing in front of the Commission was Alan Zakrzewski, Director of Residential Services at Ashlar Village, and Vernon Grant, Maintenance Manager, Facility Operations, Ashlar Village.

Mr. Zakrzewski said he was concerned about the Cease & Correct Order received on Friday.

Ms. O'Hare said went over the history noting this has been going on for a while and she brought it to the attention of Mr. Grant. She said she went to the site to get their old bond released which has been on the records since 2006 and happened to see the erosion. She said Mr. Grant agreed to have Ashlar Village do some fortification of the drainage swale which receives discharge flows from a large storm basin which was installed by the order of The Army Corps of Engineers. She said the swale is approximately 1,000 feet long. She said at the end of the swale, there were erosion problems. She noted herself and Chairman Vitali had gone to the site approximately five years ago and a redesign of the swale was agreed upon and installed them.

She said five years later, the redesign has been eroded and noted Ashlar Village retained Milone & MacBroom to design a fix. She said a plunge pool, approximately 20 ft. by 20 ft. was installed and rock in the drainage way up to Town property was also installed. Ms. O'Hare said the fact that storm water was going to come off their property into Town property was approved is not in question. She said what is in question is the force of the storm water coming out of the storm basin and what it has done to Town property, taking the forest floor down to ledge, and damage to a steep ravine. She said there is now an ongoing problem.

Ms. O'Hare said Ashlar Village took care of the problem on their property, but as far as taking care of the problem on Town property, Ms. O'Hare said Ashlar Village wanted a violation letter stating to take care of the problem on Town property. She said unlike a Cease & Desist, which says stop everything, this Cease & Correct is a friendly order to do everything in a hurry without having to go through two months of procedure. She noted they will need Town Council approval to do work on Town property.

Chairman Vitali asked if the storm water runoff immediately touches Town property.

Ms. O'Hare showed him the site plan drawing for orientation purposes.

Commissioner Kern said this was done correctly at the time, but it has been global climate change and fierce storms which has caused this. He said he would have done this as an administrative in-house instead of a letter.

Mr. Zakrzewski said that Ms. O'Hare, in her letter, had commented on an earlier proposal submitted by Milone & MacBroom which stipulated no work on the down steep bank was planned and that it was their understanding the work would be permitted as a maintenance item by IWWC. He said Milone & MacBroom cited the difficulty of getting down or up the ravine to make repairs and attempting to do work in the ravine would cause more harm with tree and vegetation removal, and the focus should be to work on Ashlar Village's side of the property to slow or reduce the amount of flow which could include stabilization of the eroding channel.

Commissioner Kern said stabilization needs to be addressed and is a maintenance issue. He said maybe the IWWC needs to take a look at this.

Mr. Zakrzewski said he is looking for direction from Ms. O'Hare and what to do.

Commissioner Heilman said it makes sense to try to control the upper end, go to the source. He said as far as the world changing, he doesn't see this as far as a scientific view is concerned, but what has changed is human intervention increasing water flow over the years. He said an inch or two of retention could have a major effect on peak flows.

Commissioner Kern asked if the flow could be slowed down at the big pond.

Mr. Zakrzewski said this could be looked at because nothing could be done in the ravine itself.

Chairman Vitali suggested getting Roman Mrozinski, Executive Director of the Southwest Conservation District involved in this issue to see what suggestions he might have.

Commissioner Kern said the erosion has stabilized itself as it races downward, but the banana shaped pond is contributing to the erosion.

Ms. O'Hare said the top of the ravine is getting eroded.

Chairman Vitali said it would be difficult to create a structure at the top of the ravine.

Commissioner Kern asked if coffer dams could be installed.

Mr. Grant said there were existing checks going down towards the discharge end. He said when it hits the end, this is where the water is supposed to fan out. He said the water is pushing towards one side and this is where the rock was installed to slow the water down.

Ms. O'Hare cited page 3 of her Cease & Correct Letter and asked the Commission if they wanted to follow through. She said Ashlar Village must have a proposal of how they are going to correct this situation of erosion on Town-owned property. She asked if the IWWC wanted a deadline. Ms. O'Hare said she wants the storm water better attenuated, whether it is on Town property or on their property.

Commissioner Kern suggested giving Ashlar Village 60 days to come up with a plan from Milone & MacBroom and have Ms. O'Hare contact Roman Mrozinski, and hopefully, a resolution should be reached on how to resolve this issue and to report back by the February meeting.

Chairman Vitali said if anything is going to be done, it will be done before the cliff.

ADJOURNMENT

Mr. Parent made a motion to adjourn the Meeting at 8:28 p.m.. Mr. Murphy seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary