

Wallingford Inland Wetlands & Watercourses Commission

Wednesday, April 2, 2014 – 7 p.m.

Robert Early Auditorium, Town Hall

45 South Main Street, Wallingford, CT

MINUTES

The Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission was held on Wednesday, April 2, 2014 in Council Chambers, Town Hall, 45 South Main Street, Wallingford, Connecticut.

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

Absent: Vice-Chairperson Ellen Deutsch.

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

Voting members were Commissioners Vitali, Phillips, Murphy, Parent and Kern.

CONSIDERATION OF MINUTES

1. Regular Meeting, March 5, 2014, 7:00 p.m.

MR. PARENT: MOTION TO APPROVE THE REGULAR MEETING MINUTES OF MARCH 5, 2014 AS PRESENTED.

MR. MURPHY: SECOND

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

OLD BUSINESS

1. **#A14-3.1/70 Pond Hill Road** – Lyman Hall High School – BSC Group c/o Luke McCoy – (improvements to track & field facility).

Representing the Town of Wallingford/Applicant was Luke McCoy, PLA LEED, Associate at BSC Group.

Mr. McCoy said the intent of this project is to renovate the athletic facility, the main stadium, at Lyman Hall High School to bring it up to the same standard of Sheehan High School. He said the project entails taking the existing track, replacing it with a new impervious track which is slightly wider to include two lanes and dual long jump pits, dual pole vault runways and a high jump area in order to bring it up with current sports standards. He said the natural grass field on the inside of the track will be converted to synthetic turf. He said the existing home bleachers, concession stand and storage facility will not be renovated, but the existing visitor bleachers will be moved back slightly to fit the new track. The walkway which runs behind them will stay.

Mr. McCoy said a new team room, concession and bathroom facility is being proposed. He said large metal storage containers which stores track equipment, will be replaced by a three-bay pre-fab building. He said this building will be moved further away from the wetlands so as not to disturb that area.

Mr. McCoy said most of the proposed disturbance to three areas of the upland review area will take place as the old parts of the facility are taken down and some pavement is taken up from the old track. He said once this is done, the area will be re-seeded to return it to its natural state.

Mr. McCoy said another disturbance to the upland review area will take place when two unused concrete structures, which are part of the site regarding to fit the track, will be removed. He said this area will also be re-seeded; the third upland review area disturbance area will take place when the new pole vault area is constructed for the track team, which is on the opposite side of the existing bituminous walkway which already goes through the regulated wetlands area. He said this area, which is now a lawn, will be restored.

Mr. McCoy said the overall design of the field, is synthetic turf, with two layers of drainage stone below, with flat panel drains below that. He said this design is proposed, so when there is a major rainstorm, water will flow through the field down into the stone, collects there, and then is piped out into the storm water system at a reduced rate. He said that some of the collected storm water will be infiltrated into the ground. He noted that in a major storm, the difference between natural grass and synthetic turf is that the natural grass will sheet flow the water. He said some of the water collects into a catch basin, but most of it flows over the wetlands and the practice field in the back. He said what is proposed is that the rainwater will be collected, infiltrated, and then pipe it to tie into the existing system at a more consistent rate. He said the overall site area for the scope of the project is just over 5.39 acres. He said the disturbance in the regulated area, not affecting any wetlands, is 0.1 acres. He said the intent is where there is wetland disturbance, other than the part for the pole vault, it will be restored back to lawn upon completion of the project.

Chairman Vitali asked about the connection to the sanitary sewer for the proposed bathrooms.

Mr. McCoy said the sanitary system will be tied into the school system and is outside the wetland buffer.

Commissioner Kern expressed concern about the sidewalk along the side of the track, which he said was under water during heavy rains at two events he had attended. He said there is a storm water problem because the water doesn't move fast enough off the site, it puddled up on the field. He suggested the water be piped west of the field to get it off site because there is no room to the east for it. Commissioner Kern asked if the existing walkway would be elevated so it will not be underwater.

Mr. McCoy said the proposal calls for the walkway will stay, but regrading will take place between the track and the walkway. He said work will be performed on the interior of the track; the only exterior work would be on the walkway directly around the track. He said the intent was not to touch that area, because it was within the regulated area. He said if the IWWC wishes, the grading can be changed, but this will further impact the disturbance of the wetland areas, because if it is raised, it will have to be graded back which will put the work near the wetlands. He said the intention was trying to stay away from the wetland and work from the sidewalk in while providing a new walkway directly adjacent to the track and leave the secondary walkway as is.

He said the stone itself on the field acts as a storage unit and the outflow pipes are sized to reduce outflow during a major storm which keeps the water in the stone base underneath the field. He said this will act as a "bathtub" to store the water which will allow the water to flow into the storm system at a regulated rate so the system is not overtaxed. He said this acts as a "detention basin." He noted the overall square footage of the field is over 100,000 sq. ft. with an eight- inch cross section of stone which is the area of storage available under the field.

Commissioner Kern asked what calculations were used to determine storm water discharge off the site, because he was concerned after project completion, there would be a water problem and now would be the time to address it and the proposals were not going to improve the existing water problems.

Mr. McCoy said these calculations are in the storm water drainage report.

In her Environmental Planners Report dated March 27, 2014, Ms. O'Hare said a permit was needed because of the discharging of additional water ultimately into Wharton Brook and their activities within 50 feet of a wetlands. She said there are three wetlands on-site and they are encroaching with their various improvement activities within 30-feet of the northeasterly wetland; within 20 feet to the southeasterly wetland and within 33 feet of the northwesterly wetland. She said this is a big project, with a lot of activity which led to her decision to go for a full application. She said she requests approval of this renovation project, with one condition of approval, that the Environmental Planner be contacted to inspect the installation of the approved erosion control measures installed on the site, prior to any work proceeding further on the site.

Chairman Vitali said he believed this area of Town had the greatest permeability of sand and gravel underneath the field and to collect the water and pipe it or swale it over to the brook, he didn't understand why there weren't drywells underneath the pervious layer. He said he wondered if the use of the trench around the perimeter was being maximized and why this perimeter drain couldn't be used to recharge the groundwater.

Mr. McCoy said the perimeter drain will be able to infiltrate and is below the compacted area and that the walls of that trench when it's made, will not be compacted, they will be open against it. He said the reason the surface below part is compacted, is there has to be a stabilized base to put the field in.

Chairman Vitali asked how the water would get into the trench.

Mr. McCoy said water will flow through the turf, into the eight-inches of stone base and the perimeter base sits three feet off, parallel to the track, and sits below the eight-inch collection trench. He said the collector pipe sits in the bottom and the field is on top. He said it is all pitched down towards the perimeter drain and the water makes its way into the collection basin.

Chairman Vitali asked how he could get the water from the other side of the sidewalk from the east side of the property, into the trench.

Mr. McCoy said that shouldn't be done because the system inside the field is a closed system, but the water that makes it through this from the turf, is clean and doesn't run over surface water. He said he would not want to introduce water coming off of the lawn into this. He said he has proposed two separate systems: the track and field is one and what is on the outside is a separate system. He said we could take the water and look to add a bio swale on the outside to collect the water and move it.

Chairman Vitali questioned whether a bio swale would be appropriate for this area because people would be walking near this depression. He said he wasn't sure if there should be drywells or another short trench drain to get the water back into recharge.

Mr. McCoy said one of these two options could be researched and would consult with his engineer to look at redesigning that area and reconstruct the walkway and tie it into the system.

Chairman Vitali said reconstruction of the walkway will require additional grading up to the wetlands. He said the upland review area will be reseeded back to grass and restored to the way it was, thus benefitting that entire area. He said he didn't look at this as a detriment to the wetlands area, it will not dewater the wetlands area, and maybe the sidewalk stays in a drain between the sidewalk and the wetlands in the upland review area. He suggested a shallow curtain area or a French drain be installed.

Mr. McCoy said this could be installed but could not indicate the size or the depth at this time.

Commissioner Kern asked about the sidewalk elevation.

Mr. McCoy said it is not changing; it is currently at 71½ feet

Commissioner Kern said the sidewalk elevation will be 73 feet when finished so it will sit two and ½ feet below the finished grade of the turf field. He said currently there is a water problem there with the children taking their shoes off and walking through the problems. He said this needs to be corrected and built at the same time. He said he would like to see a French drain around the entire perimeter.

Mr. McCoy said the area between the new pole vault area and the sidewalk will be looked at and that water will be collected before it has the chance to make it across the sidewalk. He said improving the sidewalk will be the goal.

MR. PARENT: **MOTION THAT APPLICATION #A14-3.1/70 POND HILL ROAD
LYMAN HALL HIGH SCHOOL (IMPROVEMENTS TO TRACK
& FIELD FACILITY) BE DEEMED NOT A SIGNIFICANT ACTIVITY**

MR. MURPHY: **SECOND**

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

MR. PARENT: **MOTION THAT APPLICATION #A14-3.1/70 POND HILL ROAD
LYMAN HALL HIGH SCHOOL (IMPROVEMENTS TO TRACK &
FIELD FACILITY) BE APPROVED WITH THE FOLLOWING
CONDITIONS:**

- 1. THE ENVIRONMENTAL PLANNER INSPECT INSTALLATION OF
APPROVED EROSION CONTROL MEASURES INSTALLED ON
SITE PRIOR TO ANY FURTHER WORK PROCEEDING ONSITE**
- 2. TO PERMIT USE OF THE UPLAND REVIEW AREA TO CORRECT
A DRAINAGE PROBLEM AT THE SIDEWALK ON THE EAST SIDE
WITH LIMITED ENCROACHMENT OF THE UPLAND REVIEW
AREA SUBJECT TO THE ENVIRONMENTAL PLANNER'S
REVIEW**

MR. MURPHY: SECOND

Before the vote, Chairman Vitali entertained comment from the Commission.

Commissioner Parent said it doesn't appear that there is a finalized plan and the sidewalk issue will be looked into.

Commissioner Kern said he didn't want to hold the project up, but emphasized that the water problem with the sidewalk to be addressed.

Ms. O'Hare said this matter was discussed at an Interdepartmental Meeting on Wednesday and there were a number of questions regarding the drainage that were asked.

Commissioner Kern asked if the decision could be tabled for a month until these questions were answered.

Ms. O'Hare said if the IWWC tabled its decision, the Planning & Zoning Commission could not go forward at their meeting.

Commissioner Heilman asked if this would change the impact to the wetlands. He said a decision would not because the sidewalk, whether it is good to walk over it wet or dry would not impact the wetlands, so should we be holding up an issue that is more of a concern to Planning & Zoning. He said we are protecting the wetlands and would like to see P & Z look into seasonal and storm flooding.

Commissioner Murphy said that the IWWC would like to impress on the town to look into this with a little more detail (the sidewalk) and see if they could do something with this project, but agreed with Commissioner Heilman that it doesn't impact the wetlands.

Chairman Vitali said the issue is whether a new sidewalk is installed or not, the reason the sidewalk would have an impact to the wetlands would be that it is in the upland review area. He said other than the elevation of the sidewalk, this is not our plan. He said the IWWC can in the motion, can grant condition of approval that they are allowed to correct the elevation of the sidewalk and keep the work in the upland review area to a minimum, subject to approval of the Environmental Planner regarding the installation of a drain in that area. He said he was disappointed that all types of people are at this field all year, and it took a parent to identify the water problem.

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

NEW BUSINESS – No new applications.

ELECTION OF OFFICERS

Chairman Vitali said per the by-laws as indicated by Corporation Council Janis Small, the original members have to be the voting members. He said this will be status-quo until a change or the return of Vice-Chair Ellen Deutsch.

Chairman Vitali took the agenda in the following order:

VIOLATIONS

1. **#A13-8.2/59 & 65 North Plains Highway** – Wallingford Group, LLC – (Significant Impact – stream crossing & excavation & filling activities for industrial use – concrete storage yard) - Notice of Violation re: permit noncompliance, unpermitted filling on site and Town property, unpermitted clearing & other activities

Appearing in front of the IWWC was Jonathan Gavin, property owner, and George Cotter, engineer, OCC Group.

Ms. O'Hare gave an overview of the situation. She said this application was a significant activity application for which a public hearing took place and it was approved on October 2, 2013. She said the Applicant went through the Planning & Zoning process. Ms. O'Hare said she was driving by the site on March 24, 2014 and observed that work was underway. She said the notices of violation were sent out March 31, 2014 and copies to the IWWC were mailed on Tuesday.

Ms. O'Hare said there are numerous on-site violations, notably that the culvert had already been installed, a lot of filling and excavation work had already been done, and there was no silt fence installed which violated the phasing plan. She said the item in the approved phasing plan stated that the silt fence should be up before work commences. She said work was done on Town property, the 40 ft. wide right-of-way which the Town has on North Plains Highway, which is another violation. She said the area on either side of Padens Brook was completely denuded and re-graded with rip-rap installed on the south side. She said the Law Dept. has this under review regarding work without permission on Town property. She said this work would have required both a wetlands permit and permission from the Town.

Ms. O'Hare said the work was on-going and she re-visited the site several times last week. She presented photographs to the IWWC dated March 27, 28 and 30, 2014. She said after a heavy rainstorm on March 30, she went back to the site and took photos. Ms. O'Hare said the site is four acres wide-open. She said the good news is that the soil is exceedingly sandy and handled the storm well in terms of where the area was excavated and filled. She said she was not pleased with how the stream banks handled the storm because they had been denuded between North Plains Highway and the culvert. She noted when she gave the directive to add more silt fencing, the owner complied. She also gave the directive to lay down mulch ahead of the upcoming storm, but noted the owner said he would install erosion control mats on the 3:1 slopes the owner created at the outlet of the culvert and before the culvert which held up well. She said the other violations were the unpermitted activities of the filling of the wetlands on Town property, filled and re-graded upland review areas on Town property and took down trees. She said she gave the directive to cease work in this area.

Chairman Vitali said he wanted to focus on violations the IWWC could handle and straighten out.

Ms. O'Hare said there are two categories of violations: unpermitted activities and activities that were permitted but were not executed in the approved manner. She said the installation of the culvert was not installed correctly so it is under activities permitted but not executed in the approved manner. She said the culvert was installed approximately a foot too high at the opening and approximately a foot and a half too high at the end. She said where the culvert outlets at the far end, the water comes down a waterfall about one foot high, which was supposed to be set a foot below grade so there would be a foot of natural material in the culvert. She said the Contractor directed her to a stockpile and was told by the Contractor that he was not going to put the stockpiled stream material back into the culvert.

Ms. O'Hare said in the Notice of Violation, as per the Chairman's directive, the Applicant was to come in with an engineer's statement as to why certain things, including the culvert height, deviated from the approved plan. She noted she has not received an statement from the engineer. She said she asked for this on page 4 of the violations. She said the engineer was also asked to comment on several deviations, which was discussed and the difference positions in the wing wall installation. Ms. O'Hare said the rip-rap protection area located downstream from the culvert crossing had a 25-foot long and a 20-foot wide protection area which is standard at a culvert area. She said the contractor left a five-foot channel down the middle. She said she didn't know why this was left, and steel plates not in the original design, were also installed. Ms. O'Hare said she requested a submission of a survey plan depicting some of the clear-cut areas because there is an area that has been "clear-cut" which is outside the area approved for the storage yard, at the southern end of the property and outside the area opened up by the previous owner. She said this is clear cut right to the wetlands edge and "clear-cut" in wetlands designated areas. Ms. O'Hare said the plans call for a turbidity curtain to be installed before the culvert went in, which was not installed.

She said the curtain was installed last week but was not installed correctly. She said it was supposed to go across, was supposed to be staked, but was flapping in the breeze, and was to be monitored. She also said wetlands was disturbed and re-graded in front of the culvert, and rip-rap installed on their side which wasn't supposed to happen. She said two mature 2 to 3 ft. diameter trees were also taken from the northern bank on 65 North Plains Hwy.

In representing Mr. Gavin, Mr. Cotter reviewed the Environmental Planner's Report and went over what he observed on-site over the past few days. He said soil and erosion control measures were installed. He said the entire perimeter of the area has silt fence installation. He said after the rains, there was no discharge off the site because the soil is sand and gravel and is stable. Mr. Cotter said he walked the property on Wednesday and the flags have been erected and the silt fence is to the property side of the wetland flags.

Ms. O'Hare went over a colored site plan map of the violations. She said the red line was the property line of the new concrete storage yard approved in October which is 59 North Plains

Hwy. She said there is a straight line on the site-plan map which can be mistaken for property line. She said this is a tie-line and at this point she was not sure if the contractor went over the line onto Town property. She said the Applicant was allowed to grade some of the upland review area in the permit, but they went beyond the permitted area.

Mr. Cotter said he did not walk the perimeter near the property line, only where the wetland flags were located. He said he did not believe the area in the southeast corner where we went beyond the wetlands was correct. He said the wetland flags were put back up in that area. He said according to the plan he is looking at, the wetlands extend out in the area, quite a bit further than Ms. O'Hare is showing on her site plan map.

Ms. O'Hare pointed out the 40 ft.- wide Right Of Way off of North Plains Hwy. She showed on the site plan map where the trees were cut down in the upland review area which is a violation on Town property.

Mr. Cotter said this property was permitted back in 1982. He said the issue is that over time, the flows to that area have increased. He said originally, this was not a treed area - it was left and there has been growth on the banks. He said the material in this area is sand and there have been undermining in the banks to the point where some trees in the area will shortly be in the bottom pond area. He said we are in here with a proposed project, and the Applicant will ask the IWWC that he be allowed to rip-rap the banks for stabilization.

Chairman Vitali said the Applicant should have requested this before it was done because the Applicant had no permit to rip-rap the bank. He said if the Applicant had requested this, it would have thrown this application into another level. He said the trees cannot be put back.

Mr. Cotter said the AT&T line runs adjacent to the slope.

Mr. Gavin said AT&T requested the slope be rip-rapped.

Mr. Cotter said the rest of the area has been stabilized with erosion blankets.

Ms. O'Hare said half of the rip-rap is on Town property and half on Mr. Gavin's property. She said the rip-rap was not approved and the wetlands in this area were not supposed to be filled. She noted the wetlands were permitted to be filled where the 160 ft. culvert crossing went in.

Mr. Cotter addressed the elevation of the culvert. He said it is set in this end so one has an ability to put material back in the box. He said the plans call for the culvert to be six inches below grade. He said the culvert is set at the right elevation. He said as far as the outlet is concerned, there is still the ability to provide the six inches in the culvert before it reaches the rip-rap. He said the plan calls for the box to be set six inches below the stream bed.

Regarding the elevation of the culvert, Chairman Vitali said he believed one could not go by the photographs, and if one doesn't have elevation on the original map, how can it be justified. He said if Ms. O'Hare can find elevation on the original map, then the Applicant would have to provide an as-built drawing of the elevation.

Ms. O'Hare said the bottom of the culvert is six inches deep and is supposed to be set six inches below grade, and there is supposed to be eight inches of stream bed material.

Mr. Cotter said the inside of the box is six inches down which allows for six inches of material to be put back in.

Ms. O'Hare suggested the Engineering Dept. review this. She said a meeting took place today where the culvert crossing was discussed.

Chairman Vitali told Ms. O'Hare there is a lot more work to do on this issue because pictures won't do it justice. She said Ms. O'Hare should have gone to the site today.

Ms. O'Hare said she gave a directive to the Applicant not to do anything more not in the permit. She said the turbidity curtain was improperly installed and not big enough. She said if material is put into the culvert, a new turbidity curtain must be installed.

Mr. Cotter said the turbidity curtain is to be in place when construction of the culvert takes place. He said everything is completed except for the placing of material in the bottom of the culvert. He said the curtain is not required by plan right now because everything is stable. He said at the time when the material is put in, the curtain will be put back into place. He said clean water is being run from the Highway through the box and nothing is being displaced.

Ms. O'Hare said the turbidity curtain will be needed when the material is put back into the culvert, but this is an active construction site and at any time sediment can go down into the culvert, so she feels more comfortable with the turbidity curtain in place. She said the stream bank used to have vegetation along it and is now denuded.

Mr. Cotter said there is erosion protection around the bank and there is nothing being discharged in the brook.

Commissioner Kern said the Applicant should have hired a competent contractor that should have notified Ms. O'Hare. He said the mistakes that were made must be corrected and move on.

Ms. O'Hare said she believes someone needs to survey this area (pointing to the southern "clear-cut" area on the site plan). She said it is an area about 100 ft. by 80 ft. and doesn't know exactly where it falls. She said she doesn't know why this area is "clear-cut" and why this activity went beyond the area approved in the plan. She also questioned why the contractor went all the way up to the wetlands line with the silt fence.

Commissioner Heilman said this was unfortunate because the IWWC usually has a good working relationship with the Applicants and that this is a slap in the face. He said the work was started with complete disregard for putting up any type of work barrier, i.e. the erosion control protection.

Mr. Gavin responded by saying he knew Ms. O'Hare was never a big fan of this project, but she has made claims of which 95% is untrue. He said 90% of the silt fence was up and is probably one of the best sites he has ever seen. He said the tree cutter got a little aggressive but did not enter the wetlands, but did enter some of the upland review area but everything will be corrected.

Chairman Vitali noted that if the Applicant has "clear-cut" outside of the permitted work load, that is not "one of the best sites" we have seen.

Commissioner Parent said when the Applicant starts substituting his judgment from what was agreed upon, then this is a breach of contract and we would look for remedies. He said there is a violation because these actions were not what was agreed to. He said the burden falls to the Applicant to reconstruct this with a plan.

Mr. Gavin said there was a disconnect over some of the land clearing that was done.

Ms. O'Hare said there is a line item in the budget for environmental services/professional services, and suggested a surveyor to survey the area of the approved storage yard limits because she did not feel qualified enough to exactly know in time and space and has no GPS equipment to know where she is. She said this would establish where the encroachment was, and it should be re-vegetated. She said if the Commission doesn't want the area re-vegetated, it could come back as invasive species or subject to storage yard creep. She suggested a fence be erected.

Chairman Vitali suggested Ms. O'Hare have a variety of meetings with people. He asked if Commissioner Heilman could represent the IWWC to find the storage yard boundary and the opinion of the upland review area. He said Ms. O'Hare and possibly Town Planner Kacie Costello and Dave Juliano, George Cotter, and Jon Gavin could go out to the site and get a handle on the area and the violations and condense this situation. He said possibly they will have an elevation of the culvert. He said the Applicant did indicate in the original plan and in this plan that he wants to seed and vegetate the perimeter of the storage yard. He said he does not want to get involved in the surveying just yet because there are some other things to be looked at first.

Ms. O'Hare said she was not at the site this week, but hopes since Sunday, this area has not been cleared further. She said she doesn't have a comfortable feeling that additional grading will not happen. She recommended in the Notice of Violation that went out Monday, that this line be surveyed at least by the Applicant's surveyor. She said it is all over the place.

Mr. Cotter said the surveying could be completed in one week as soon as Chris Juliano, P.E. from Juliano Associates could get to the site.

Ms. O'Hare said the project is moving quickly and that millings will soon cap the area. She asked if the IWWC wanted the millings installed because she did not know at this time what the limits were.

Commissioner Kern said the soil is unstable and the millings will stabilize the area so there will not be an erosion problem. He asked if the Engineering Dept. could go on site and flag the area. He asked Ms. O'Hare what she would like the Applicant to do.

Mr. Cotter said the Applicant would have the area surveyed to determine where the millings should be put down.

Ms. O'Hare recommended this all be put back to natural vegetation such as grey stemmed dogwood - all in the area that was cleared and graded by mistake.

Commissioner Heilman said once the Applicant gets the area surveyed and marked, he will accompany Ms. O'Hare to the site and review the situation. He said the outfall of the culvert can also be looked at to see how the rip rap is doing.

2. **69 North Plain Highway** – Wallingford, LLC – Notice of Violation re: unpermitted clearing.

Ms. O'Hare said this is United Concrete property. She said when she was doing a site investigation in the fall, she noticed there was encroachment into the wetlands at the United Concrete property. She said some of the encroachment was not recent, but some of it was. She said there were stockpiles of earthen material which had no weeds growing on it. She said the stockpile was up against a steep 50% earthen slope which goes down to the Quinnipiac River floodplain. She showed photographs of the site. She said this was a violation and brought this to the attention of Mr. Gavin and the project engineer who then surveyed the area. She said it was agreed the violation would be "taken care of", the stockpile would be taken away and other violations would be rectified when the project was underway with the equipment on site. Ms. O'Hare said she showed photos of the violations to Mr. Gavin and the project engineer at that time.

Ms. O'Hare said the violations included stockpiling and the extension of the storage yard which killed four trees resulting in material falling down into the floodplain below. She said it was a small area affected, approximately 60 ft. by 30 ft. Ms. O'Hare said she returned to the site on Friday, and the entire forest of 150 year old trees were cut beyond the slope. She said the tree cutter cut trees going beyond the slope to the water. She said a two and a half diameter tree was also removed from last October that had the stockpile leaning up against it. She said this is a violation of clear cutting within an upland review area. She said she did not believe any wetlands were affected and there was no ongoing erosion. Ms. O'Hare said the violation from last fall is still in place that should be dealt that was never addressed.

Mr. Gavin said nothing was done. He said Mr. Juliano told him he had a survey from 2003 and we never pushed that pile up. He said he never remembered receiving a violation from the Town, but said the tree cutter cut the trees. He said he did not believe the trees that were cut were in the upland review area. He said he and Mr. Cotter looked at this area on Wednesday.

Mr. Cotter said the trees on the bank are within the upland review area and the area outside that, is where nothing has been done. He said there were not that many trees that would fall in the upland review area. He said some of the area further down is outside of the upland review area. He said the trees were cut where the old stockpile was located and can be replanted in that area at the top of the bank. He said years ago, someone pushed the fill out of that area and left a fairly steep slope which is seven or eight feet high, but is stable.

Chairman Vitali said this changes the upland review area line which starts at the top of the slope. He said the Applicant will get Mr. Juliano to do surveying with definite lines, and as soon as this is done, he directed Ms. O'Hare to return to the site.

Mr. Gavin said he came up with proposed drawings and sketches which he then distributed to the IWWC tonight which the IWWC then reviewed. He said this would involve rip-rap and soil stabilization on the bank. He said he would like to install approximately 65 ft. of rip-rap and maintain the rip-rap. He said there is rip-rap that we installed including rip-rap which was previously installed from the Town.

Ms. O'Hare said this area used to be trees and shrubs, and if the rip-rap was not put in, it would return to trees and shrubs which have habitat value. She said the rip-rap would slow the storm flows down and would require an additional permit and also Federal permit. She said this was a big project.

Mr. Gavin said the Army Corps of Engineers was looking into this project, but are not sure whether a permit is needed. He said he will be meeting with the Army Corps on Thursday to discuss this.

Ms. O'Hare said a condition of approval from Planning & Zoning was that State permits be in order. She said the Town Planner contacted the State and was told the State would be contacting the Army Corps.

Commissioner Kern asked how this got by the Town and how did she not pick this up that the Applicant may need an Army Corp permit.

Ms. O'Hare said Mr. Juliano kept this under the limit which is 200 ft. for a stream bank alteration. She said it was kept at 196 ft. She said with the violations, by her calculations, it is in the area of 300 ft. She said someone would have to review this and do a survey.

Commissioner Kern said he did not believe regular rip-rap would hold the stream flow back. He asked if the pipes could handle all of this water.

Mr. Gavin said there were three pipes installed now. He said the trees on the bank would be in the river anyway because the area has been eroded. He noted that Henry McCully, Director of Public Works, liked the proposal.

Commissioner Vitali said because the Army Corp would make a decision in two years, the IWWC would worry about it then. He said the modification to the permit allows for rip-rap to be

installed and if the IWWC believes this is a good idea in that section, then the Applicant should apply for a modification to the permit.

Ms. O'Hare pointed out that some of this proposed project is on Town property.

Commissioner Vitali said the Town Engineer or the Law Dept. could rule that that rip-rap could be installed on Town property.

Commissioner Parent said both the Applicant and the Town would need a modification to the permit which could be combined.

Chairman Vitali said everything is in place to move forward: surveying work will be done; a meeting will be put together and Commissioner Heilman will assist Ms. O'Hare in reviewing the ongoing activity.

REPORTS & COMMUNICATIONS

2. Notice re: Petition filed with CT Siting Council for a declaratory ruling regarding replacement of existing silo with a taller silo for wireless communications facility by New Cingular Wireless (AT&T) to be located at 743 Murdock Ave., Meriden, CT., submitted 3/28/14.

Not taken up.

Introducing correspondence received at the meeting, Chairman Vitali said the Public Utilities Commission requested and received approval from the Town Council to construct an inter-connecting station around the Pond Hill Road and Clinton Hill Road in North Haven in order to connect to the South Central Regional Water Authority's pipeline system. He said the theory behind this project would be beneficial to either municipality who needed water if the other municipality had water.

Ms. O'Hare said, regarding the correspondence, that the Town applied for a diversion permit from the State. She said this is a notice.

Chairman Vitali said this doesn't have to be acted upon.

1. Notice re: DEEP Permit Application for the Use of Pesticides in State Waters: Preserve condo ponds, Summerhill Rd.

Chairman Vitali said he believed this retention pond was never supposed to be a wet-bottom pond. He said pesticides will be used in the water to kill algae.

Ms. O'Hare said they have applied previously to the DEEP for this.

Chairman Vitali discussed the BYK project. He said they previously appeared before the IWWC saying they did not need a permit. He said they came in with a plan for an expansion to their parking lot, and this falls into the same category, that if they did not need a permit for the first

project, none is needed for this project. He said Ms. O'Hare has generated a list of recommendations and comments for the Applicant.

Ms. O'Hare said she forwarded her comments on this low impact development project to Planning & Zoning for their review.

EXECUTIVE SESSION

MR. PARENT: MOTION TO MOVE INTO EXECUTIVE SESSION PURSUANT TO CONNECTICUT GENERAL STATUTES SECT. 1-200 (6)(A) TO DISCUSS PERFORMANCE OF COMMISSION STAFF AT 9:10 P.M.

The Commission left the Auditorium at this time (9:10 p.m., and returned at 9:46 p.m.)

MR. MURPHY: SECOND

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

MR. PARENT: MOTION TO MOVE OUT OF EXECUTIVE SESSION AT 9:46 P.M. AND RETURN TO THE REGULAR MEETING

MR. MURPHY: SECOND

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

ADJOURNMENT

MR. PARENT: MOTION TO ADJOURN THE MEETING AT 9:47 P.M.

MR. MURPHY: SECOND

VOTE: UNANIMOUS

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary