

WALLINGFORD INLAND WETLANDS & WATERCOURSES COMMISSION

WEDNESDAY, APRIL 6, 2016

ROBERT F. PARISI COUNCIL CHAMBERS

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, April 6, 2016, in Council Chambers, Town Hall, 45 South Main Street, Wallingford, CT.

Seated Commissioners were: Vice-Chair David Parent, Acting as Chair; Nick Kern, Secretary; Deborah Phillips; Alternates Daryll Porto and Michael Caruso; Erin O'Hare, Environmental and Natural Resources Planner.

NOT PRESENT: Chairman James Vitali; Commissioner Dennis Murphy and Alternate Jim Heilman.

Acting Chair Parent called the Meeting to order at 7:03 p.m.

Voting members were: Kern, Phillips, Caruso, Porto and Parent.

CONSIDERATION OF MINUTES

1. Regular Meeting, March 2, 2016

MS. PHILLIPS: MOTION TO APPROVE THE MARCH 2, 2016 MEETING MINUTES

AS PRESENTED

MR. KERN: SECOND

VOTE: UNANIMOUS

OLD BUSINESS

1. **#A15-11.3/1303 Durham Road** – Henry Woronick – (pond dredging, tree removal & yard grading)

Appearing in front of the Commission was Jennifer Woronick, 1300 Durham Road, representing her father at 1303 Durham Road, told the Commission she wrote out a more detailed plan but noted she still has not obtained an engineer. She said she spoke with a Water Division who was adamant that an engineer be obtained. She said the representative said her plan was adequate but wanted more reassurance and more experience. Ms. Woronick pointed out this project was done 50 years ago by people who are "beyond familiar" with the stream and the project.

Ms. Woronick said the Water Division believes there should be dredging and emphasized this is not a man-made dam at the end of the pond. She said a few rocks fell at the end of the stream creating a natural dam. She noted that if the rocks move, and noted that one rock the size of a table, has already begun to move, the sediment will go downstream and the entire area would fill with water. Ms. Woronick said the area under the bridge (which is historical), and will not be dug out because it could compromise its integrity. She said she didn't understand why the Water Division representative said her plan is adequate and believes the representative wants her family to suffer by paying for an engineer when her family is picking up all the cost of the project. She said she believes the Water Division representative wants someone to sign a name on a line so they would have someone to blame.

Mr. Kern said we have regulated ourselves to death but noted an engineer carries more liability insurance and if the engineer reviews the project and they sign off on it, the liability falls with them.

Ms. Woronick said the only way any of this could happen and anything could go downstream, the dam would have to let go which it is already at risk of. She asked if her family backs out of his project and refuses the unnecessary hardship, what would happen with the liability when the Town and the Water Division are put on notice. She said the formation of rocks will move and the sediment will go downstream, and when it does, 22 trees at the edge of her driveway (which are eroding), will either take out the bridge or go into the pond.

Mr. Kern said this is an act of mother nature, and noted that the CT DEEP is anti-dam. Ms. Woronick asked about the amount of sediment which will flow downstream and into the Town's drinking water.

Acting Chair Parent pointed out that Ms. Woronick is the owner of the property, and with ownership comes responsibility. He said Ms. Woronick is acknowledging her responsibility. He said the original structure was installed without the benefit of an engineer and there is difficulty today. Acting Chair Parent said something should be devised by an engineer which should work and if it doesn't there is liability insurance and recovery. He said it may well be Ms. Woronick's ideas are good but noted she is not an engineer. He said as far as the hardship which goes with paying for an engineer, it is true, but given the size of the property, and its value, the IWWC believes in order to protect this property, it makes sense to obtain the engineer to ensure there

is a plan and restore the property to its value. He said it is in her best interest to get the engineering plan, let the IWWC approve it, and get the work completed.

Ms. Woronick said no one can convince her to spend thousands of dollars isn't a hardship. She stressed that if they can't do the manual labor, they can't afford to do the project. She said her family is willing to do the work using their own manual labor and rent \$3,000 to \$5,000 for equipment rental because their own equipment isn't adequate. Acting Chair Parent said this cost would still be less than hiring someone to do the entire project themselves.

Mr. Kern wondered what would happen if nothing was done and damage occurred, would the Applicant come before IWWC asking for permission to repair. Ms. Woronick said if her family is not allowed to fix the safety hazard and preserve the historical bridge without undue hardship, then per her father, they would not re-apply to repair it, we would, worst case scenario, put the Town on notice that this is something that can happen. She noted her family does not fully own the dam and is something nature put there, it relieves her family of liability of the matter and puts the Town on notice. She said, per her father, if the driveway got washed out and something happened to the bridge, legal action would be pursued against the Town. She also pointed out if the trees fell into the pond, her father would not grant permission for their driveway to be used if the Town attempted to remedy the problem.

Mr. Kern pointed out that if Ms. Woronick went in front of the State, she would be informed to let Mother Nature take its course. Ms. Woronick said she spoke with the Army Corps of Engineers and was told she did not need a permit from them and saw nothing wrong with diverting a stream. Mr. Kern said the Town wants to know the project is in good hands. Ms. Woronick said the Water Division is the entity requiring this, but it is the IWWC which would approve this project. She noted that even if the IWWC approved the project, the Water Division would put an immediate stop work order on the project.

Ms. O'Hare referenced her Environmental Planner's Report dated March 31, 2016, and noted this was written before Ms. Woronick submitted her narrative describing a revised proposal which was slightly different than what the Southwest Conservation District had drawn up. Ms. O'Hare said statutorily, the IWWC is out of time, and after granting two extensions, no additional extensions can be requested and stated the Applicant can withdraw the application before the IWWC takes action; the IWWC could deny the project based upon insufficient information lack of a detailed plan and no engineer certification; or the IWWC could approve the application or do nothing. She pointed out if the IWWC does nothing, the application will go away. Ms. O'Hare suggested the IWWC take action if the Applicant decides not to withdraw the application. Ms. O'Hare noted the Applicant could re-apply any time, there is no waiting period.

Mr. Kern asked if part of the application fee could be returned to the Applicant if they withdrew the application. Ms. O'Hare said there is a clause which pertains to waiving fees, but noted

much staff time went into this application, but this could be looked into. Ms. Woronick said she was not permitted to withdraw the application, but obtain a definitive answer. She said if the application is denied, she is putting the Town on notice of an imminent threat to the public drinking water, and their driveway and to their historical bridge. She said if her family is not allowed to do this project, without incurring an additional hardship, her father would rather spend the money on lawyers and legal fees.

Acting Chair Parent entertained a motion on Significant Activity.

**MR. KERN: MOTION THAT APPLICATION #A15-11.3 1303 DURHAM ROAD
HENRY WORONICK – (POND DREDGING, TREE REMOVAL &
YARD GRADING) BE DEEMED A SIGNIFICANT ACTIVITY**

MS. PHILLIPS: SECOND

VOTE: KERN-YES; PHILLIPS-YES; PORTO-YES; CARUSO-YES; PARENT-YES

Acting Chair Parent entertained a motion on the application.

**MR. KERN: MOTION THAT APPLICATION #A15-11.3/ 1303 DURHAM ROAD
HENRY WORONICK – (POND DREDGING, TREE REMOVAL &
YARD GRADING) BE DENIED WITHOUT PREJUDICE BECAUSE
OF LACK OF INFORMATION AND NOT BEING COMFORTABLE
WITH GOING FORWARD WITH THE APPLICATION**

MS. PHILLIPS: SECOND

Discussion: Acting Chair Parent said he was voting no on the application citing not enough information to proceed and lack of an engineered drawing.

Ms. Phillips said she was voting no on the application because the engineered drawing was needed in order to make a decision.

Mr. Caruso: Voting no. Lack of information and no engineering approval.

Mr. Porto: Voting no because the Water Division stated they needed an engineering report which is not available.

VOTE TO DENY APPLICATION WITHOUT PREJUDICE: KERN-YES TO DENY; CARUSO-YES TO DENY; PHILLIPS-YES TO DENY; PARENT-YES TO DENY; PORTO-YES TO DENY.

Application denied without prejudice.

2. **#A15-12.1/70 North Plains Industrial Road** – (Cariati Developers – (additional surface area) – parking

Appearing in front of the Commission was Atty. Dennis Ceneviva, Ceneviva Law Firm, and John Gable, CT. Consulting Engineers.

Atty. Ceneviva said since January, the Applicant and the Engineer have developed a new plan at a cost of approximately \$60,000. He said last time, there was a concern regarding the two aging oil/water separators which will now be replaced with two new hydro works oil/water separators which are designed to handle a 25-year storm which is Town standard.

Atty. Ceneviva said there has also been a revision to the storm water management plan to incorporate these new units and noted there will be a revised storm water management maintenance plan which the Applicant has offered to file and is being proposed by the Environmental Planner to be filed on the Land Records to ensure compliance.

He addressed a concern by Mr. Kern regarding perforated pipes and whether the soil had been contaminated by the earlier system and previous uses. He said as indicated in the Environmental Planner's Report, a test pit was dug, and testing done confirming the underground piping system did not contain oil or silt. He said in addition, this site has been thoroughly reviewed by licensed environmental professionals and pointed out there is an environmental land use restriction on the property which precludes the site being used for residential purposes. Atty. Ceneviva said there were concerns over a proposed on-site fueling station, specifically, the adequacy of protecting the tank. He said the client will install a 2,000 gallon Convault tank which was approved by the Fire Marshal. He said his client is meeting with DEEP regarding some of the on-site activities.

Mr. Gable went over the site map and identified where some of the changes are taking place. He noted the 2,000 gallon Convault tank will be located on the northeastern side of the property near the exit along with the two new hydro works oil/water separators. Atty. Ceneviva addressed concerns regarding the historical use of the site. He said the former users filed a Form 2 verification in September, 2014 which was filed with and approved by CT DEEP. He said this form indicated all the testing which had been performed over a few years and the conclusion was no evidence of contamination to the soils or groundwater.

Mr. Kern asked about site cleanup in the past. Atty. Ceneviva said he believed there was remediation in 2010 and noted five hotspots were found and cleanup done. Mr. Kern said he was happy this project was going in the right direction and was a great improvement.

Ms. O'Hare referenced her Environmental Planner's Report dated March 31, 2016. She said the project has been improved to her satisfaction but asked about the oil/water tank required by the Sewer Division which will be installed soon for the floor drain. She asked why the installation hadn't been performed. Mr. Gable said he believed the tank is being constructed at this time and anticipates installation sometime in June.

Ms. O'Hare recommended the application be approved with one condition.

Acting Chair Parent entertained a motion on Significant Activity.

MS. PHILLIPS: **MOTION THAT APPLICATION #A15-12.1/70 NORTH PLAINS INDUSTRIAL ROAD – CARIATI DEVELOPERS – (ADDITIONAL SURFACE AREA – PARKING) BE DEEMED NOT A SIGNIFICANT ACTIVITY**

MR. KERN: **SECOND**

VOTE: **PORTO-YES; CARUSO-YES; PHILLIPS-YES; KERN-YES; PARENT-YES**

Acting Chair Parent entertained a motion on the application.

MS. PHILLIPS: **MOTION THAT APPLICATION #A15-12.1/70 NORTH PLAINS INDUSTRIAL ROAD-CARIATI DEVELOPERS – (ADDITIONAL SURFACE AREA – PARKING) BE APPROVED WITH THE FOLLOWING CONDITION AS NOTED IN THE ENVIRONMENTAL PLANNER'S REPORT DATED MARCH 31, 2016:**

- 1. A COPY OF THE STORMWATER MANAGEMENT MAINTENANCE PLAN, (DATED REV. MARCH 31, 2016), IS TO BE FILED ON THE LAND RECORDS AND A COPY OF THE RECORDING**

SUBMITTED TO THE ENVIRONMENTAL PLANNER. FILING SHALL OCCUR BEFORE THE NEW AND EXPANDED STORMWATER MANAGEMENT SYSTEM (NEW UNITS AND ADDITIONAL SUBSURFACE PIPING) IS INSTALLED AND OPERATIONAL. COPY TO BE SUBMITTED, AT A MAXIMUM, SIX (6) MONTHS FROM THE IWWC APPROVAL. SHOULD IT NOT BE FILED WITHIN THE STIPULATED TIME PERIOD, THE PERMITTEE SHALL REPORT TO THE IWWC ON THE CIRCUMSTANCES PREVENTING ITS TIMELY FILING.

MR. KERN: **SECOND**

Acting Chair Parent said it appears the Applicant has made an excellent engineering and legal presentation regarding this matter and all questions have been answered and every concern satisfied, and saw no reason to vote against the application.

VOTE: **KERN – YES; PHILLIPS-YES; CARUSO-YES; PORTO-YES; PARENT-YES**

3.#A16-2.1/530 Church Street – TWLC, LLC – (residential subdivision development – 7 lots)

Appearing in front of the Commission was William Root, Soil Scientist, and Matt Dusay, P.E., Lead Project Engineer, both of Milone & MacBroom.

Mr. Dusay said the application is for a 7 lot residential subdivision located at 530 Church Street. He said last month the Applicant received feedback from the IWWC regarding their concern of the location of the property within a watershed as well as some existing drainage issues downstream of the subject property. He said in response to these concerns, an ample amount of time was spent re-examining their storm water management model as well as the incorporated practices.

Mr. Dusay said in response to the IWWC's concern, the storm water management basin has been enlarged and will mitigate a peak runoff rate for a storm larger than the 100 -year storm event which is approximately a storm of seven inches in a 24-hour duration. He said the current design will accommodate a rain event of 8.4 inches.

Mr. Dusay said infiltration practices have been incorporated on the west side of the roadway for the four lots. He said the roof leaders for those lots will be infiltrated in the back yards with any potential overflow discharging into the wetlands which will promote some groundwater recharge and serve to mitigate some increase in runoff volume associated with the development. Mr. Dusay said some soil testing has also be performed on the property by excavating test pits in the area of the storm water management basin in order to establish the

maximum ground water table. He said the test pits revealed the groundwater table is approximately six feet down in the location of the detention basin which works with the current design. He said the outfall of the storm water management basin has also been changed to a rip-rap level spreader versus a plunge pool design in order to dissipate any erosive velocities as well as spread out any concentrated flows into the wetlands.

Ms. O'Hare referred to her Environmental Planner's Report dated March 31, 2016, stating all requested changes were addressed and recommended approval. Mr. Kern recommended at \$20,000 construction bond be set.

Acting-Chair Parent entertained a motion on Significant Activity.

MS. PHILLIPS: MOTION THAT APPLICATION #A16-2.1/ 530 CHURCH STREET TWLC, LLC(RESIDENTIAL SUBDIVISION DEVELOPMENT – 7 LOTS)BE DEEMED NOT A SIGNIFICANT ACTIVITY

MR. KERN: SECOND

VOTE: KERN-YES; PHILLIPS-YES; CARUSO-YES; PORTO-YES; PARENT-YES

Acting Chair Parent entertained a motion on the application.

MS. PHILLIPS: MOTION THAT APPLICATION #A16-2.1/TWLC, LLC/530 CHURCH STREET –(RESIDENTIAL SUBDIVISION DEVELOPMENT - 7 LOTS) BE APPROVED WITH THE CONDITIONS NOTED IN THE ENVIRONMENTAL PLANNER'S REPORT SUGGESTED CONDITIONS OF 1-9 AND A FEW ADDITIONAL CONDITIONS NOTED BELOW:

- 1. IWWC PLACARDS BE INSTALLED EVERY 50 FEET ALONG THE LIMIT OF DEVELOPMENT BOUNDARY DEPICTED ON SITE PLAN FOR LOTS #1-5**
- 2. LANGUAGE BE INCORPORATED IN THE DEED OF LOT #5 TO INDICATE THE SOLE RESPONSIBILITY FOR THE MAINTENANCE OF THE STORMWATER BASIN FACILITIES LOCATED ON LOT #5 LIES WITH THE OWNER AND THAT REGULAR MONITORING OF THE STORMWATER BASIN FACILITY ELEMENTS ARE TO BE CONDUCTED ESPECIALLY AFTER MAJOR STORM EVENTS, AND THAT BIENNIAL MAINTENANCE REPORTS ARE TO BE FILED WITH THE**

ENVIRONMENTAL PLANNING OFFICE TWICE YEARLY TO RECORD ONGOING MAINTENANCE TO INSURE PROPER FUNCTIONING OF THE SYSTEM

3. **DRAFT LANGUAGE RELATIVE TO CONDITION #2 IS TO BE SUBMITTED TO THE ENVIRONMENTAL PLANNER FOR REVIEW AND APPROVAL PRIOR TO THE RECORDING OF THE DEED FOR LOT #5**
4. **LANGUAGE TO BE INCORPORATED INTO THE DEED FOR LOT #4 TO SECURE THE FUTURE PREVENTATIVE MAINTENANCE OF THE DAM-LIKE SPILLWAY STRUCTURE LOCATED AT THE BASE OF THE POND ON ITS NORTHEAST SIDE**
5. **DRAFT LANGUAGE RELATIVE TO CONDITION #4 IS TO BE SUBMITTED TO THE ENVIRONMENTAL PLANNER FOR REVIEW AND APPROVAL PRIOR TO THE RECORDING OF THE DEED**
6. **A STORMWATER MAINTENANCE MANAGEMENT PLAN (WHICH IS DEPICTED ON THE SITE PLAN) IS REQUESTED TO BE SUBMITTED AS A FREE-STANDING DOCUMENT FOR THE FILE WITHIN ONE MONTH OF PERMIT APPROVAL. THE DOCUMENT IS TO INDICATE THE DEVELOPER'S RESPONSIBILITY TO MAINTAIN THESE FACILITIES UNTIL SUCH A TIME THAT THE TOWN OF WALLINGFORD TAKES OVER RESPONSIBILITY FOR THE ROAD AND THE OWNERSHIP OF LOT #5 IS TRANSFERRED, RESPECTIVELY**
7. **A SECOND FREE-STANDING STORMWATER MAINTENANCE MANAGEMENT PLAN DOCUMENTED IS TO BE SUBMITTED THAT APPLIES EXCLUSIVELY TO THE FACILITIES ON LOT #5, INDICATES THE INDIVIDUAL, (I.E., "OWNER") RESPONSIBLE FOR MAINTENANCE. THIS DOCUMENT SHOULD LIST EVERY ELEMENT REQUIRING MAINTENANCE AND IS TO INCLUDE DETAIL DRAWINGS OF EACH OF THE PERTINENT FACILITIES (E.G. 2,000 GALLON-SEDIMENT CHAMBER, MANHOLE, STORMWATER BASIN, RIPRAP, FILTER BERM, GRASSY BERM, GRASSY SWALE, RIPRAP SPLASH PAD, OUTLET CONTROL STRUCTURE, DISCHARGE OUTLET, LEVEL SPREADER, EMERGENCY SPILLWAY, OTHER AS MAY APPLY)**
8. **REGARDING TURTLE PROTECTION MEASURES, SITE CONTRACTOR IS TO CONTACT THE ENVIRONMENTAL PLANNER PRIOR TO START OF WORK ACTIVITY TO CONFIRM APPROVED PROTOCOL**

9. EROSION CONTROL MEASURES ARE IN PLACE AND MEET THE APPROVAL OF THE ENVIRONMENTAL PLANNER ONSITE PRIOR TO ANY FURTHER WORK BEING CONDUCTED ONSITE
10. MOVING THE LEVEL SPREADER 40 FT. TO THE WEST
11. MODIFICATION TO THE OUTLET CONTROL STRUCTURE SO THAT POST-DEVELOPMENT TWO-YEAR PEAK FLOW RATE WILL BE 50 PERCENT OF THE PRE-DEVELOPMENT RATE
12. A CONSTRUCTION BOND OF \$20,000

MR. CARUSO: SECOND

Ms. O'Hare suggested an E&S Bond of \$20,000. Mr. Kern explained he wants a construction bond because it will be for the whole sequence for the entire project because too many times after the fact there is a problem. Ms. O'Hare said she was unclear when the bond would be released. Mr. Kern said other bonds put in place in years past have come back for partial release. He said if all of these houses aren't constructed all at once, or the project isn't completed, he would rather have some type of bond to protect us. He said this is why this is a construction bond and not an E&S bond.

Acting Chair Parent said this was a difficult project and every question and concern was addressed and said he was inclined to vote yes for the project.

VOTE: PORTO-YES; CARUSO-YES; PHILLIPS-YES; KERN-YES; PARENT – YES

4. **#A16-2.2/5 Northfield Road** – 5 Northfield LLC – (replace fencing & striping of parking space) – approved administratively March 30, 2016

NEW BUSINESS – None

RECEIPT OF NEW APPLICATIONS

1. **#A16-4.1/1193 Durham Road** – Heather & Brian Gazlay – (drainage pipe to pond)

Ms. O'Hare said this application was **WITHDRAWN**.

ELECTION OF OFFICERS - Postponed

BUDGET FY 16-17

1. Town Council Public Hearing, April 7, 2016, 6:00 p.m.
2. Town Council Budget Workshop re: IWWC, April 18, 2016, 6:30 p.m.

Ms. O'Hare said she is required to attend both hearings as she does every year.

REPORTS & COMMUNICATIONS

1. U.S. Army Corps of Engineers – Public Notice (60 days) – Proposed Replacement and Revision of the Department of the Army Connecticut General Permit (GP); dated 3/18/16; received 3/14/16
2. DEEP Permit Application For the Use of Pesticides in State Waters – Fieldstone Farms Association – Northeast Tree, Pond & Turf Services, Inc.; dated 3/15/16; received 3/16/16
3. DEEP Notice of Tentative Determination To Approve an Application For Diversion of Water Permit and Intent To Waive Public Hearing –Applicant: The Tradition Golf Club at Wallingford, LLC – withdrawal of a total combined maximum daily amount of 300,000 gallons of water per day from two on-site ponds for the purpose of golf course irrigation and will affect Allen Brook; dated 3/18/16; received 3/23/16
4. Southwest Conservation District newsletter, "Soil & Water", Spring 2016 – received by Commission

Ms. O'Hare spoke about the Tyler Mill workshop noting the Conservation Commission is sponsoring Michael Klemens, Phd., biologist and ecologist, who will be speaking at the Wallingford Public Library on April 16 on analyzing habitats. She added the Conservation Commission has retained Clemens to do an analysis of Tyler Mill Preserve.

Mr. Kern spoke about the Qunniac River Linear Trail. He said the Town Engineer is working with the project engineers who may come to the IWWC for a field change, regarding the problem of water being retained instead of being discharged in the compensatory floral storage basins. Ms. O'Hare said the Town Engineer's drawing was in the Commissioners packets.

VIOLATIONS

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

Appearing in front of the Commission was David Woronick, 339 Barnes Road. He spoke about the violations and pointed before he purchased the property in question, it had already been sub-divided. He said he also purchased a two-acre lot above that property and the violations were from the property owners nephew who had a quad trail, cut trees down, put tires in the pond, including pallets and destroyed the wetlands. He said this had been ongoing for years and noted Ms. O'Hare had apparently never seen this happen. He said he brush hogged seven acres and removed the debris and said it was then that Ms. O'Hare received a phone call.

Mr. Woronick said there were people who wanted to know what was going to be done with the property because of all the quad trails. He said he met with Ms. O'Hare on-site who accused him of cutting down trees, which he denied. He said he requested the IWWC to do a site visit, but they refused.

Ms. O'Hare said she received a complaint of tree cutting and did photograph trees which had been cut within a few days. She said the original violation goes back to last May with the tree cutting. She said Mr. Woronick owns the property, so the Notice of Violation was given to him. Ms. O'Hare said she had no idea who cut the trees down. She said this was on the agenda several times and the planting of 25 shrubs to replace the cut trees was requested as remediation which to date has not been planted by Mr. Woronick resulting in this issue being placed back on the agenda. She requested the Commission to vote to uphold the Notice because she was informed by the Town Attorney this wasn't voted on properly in the past.

Mr. Woronick said he told Ms. O'Hare that he wouldn't mow three acres down and cut trees. He said someone must have cut the trees for firewood which has not been removed. He said he wondered how no one saw what was transpiring on the property. Mr. Kern said the owner is responsible for his property and that Ms. O'Hare recognized an issue which the IWWC pursued. He asked Mr. Woronick if he did anything to rectify the situation with people going on the property with ATV's.

Mr. Woronick said he didn't own the property then, and noted the owner of the property had the three acres sub-divided along with his house, and he (Woronick), purchased the property after it was sub-divided. He said the former owner's nephew ruined the property and he had nothing to do with this. He said he has not done any clearing in the wetlands; just brush hogged the seven acres and didn't cut down any trees.

Mr. Kern asked how this could be prevented from happening again in the future. Mr. Woronick said he is selling the lot. Mr. Kern asked how much damage was done with the trees. Ms. O'Hare said approximately 42 trees were cut and laid on the land in the Upland Review Area, (URA). Mr. Kern said the IWWC has permission to regulate what occurs in the URA. Ms. O'Hare said when she writes a Notice of Violation letter, the IWWC is supposed to affirm the notice. She said this should have been done a year ago, and added this should be done on every Notice of Violation case.

Mr. Kern asked what Mr. Woronick would have gained by removing the trees. Ms. O'Hare said she didn't know who took the trees down, but Chairman Vitali decided that slope had to be protected by planting 25 shrubs. She said there was no erosion. She said a permit for any activity within the URA is needed. No landscapes can be altered within 50 feet of a pond without a permit.

Mr. Kern said he would rather have Mr. Woronick promise to maintain the area to prohibit the intrusion of invasive species, i.e. multiflora rose, knotweed, bamboo, etc. He said he didn't see the sense of having the owner spend money to install shrubs in the middle of a lot.

Acting-Chair Parent asked about the cost and benefit of doing this (planting the shrubs) versus just continuing to maintain the area. Mr. Kern said the area could be brush hogged on a continual basis. Ms. O'Hare noted that Mr. Woronick was given the opportunity to apply retroactively but declined. She said people can't just clear up to a pond's edge without a permit. Mr. Woronick adamantly stated that he did not cut the trees.

Acting Chair Parent said there are two alternatives to correct this damage-planting the juniper shrubs or running the brush hog to keep the property under control. He said he favored the brush hog approach.

Mr. Caruso and Mr. Porto agreed with Mr. Kern's idea to brush hog the area.

Acting Chair Parent said a letter had been sent out and wondered if the IWWC could call the letter back. Ms. O'Hare said the IWWC could rule the Notice of Violation is no longer in effect. She noted there are two actions which can be done regarding activity in a wetland: apply for it or get a notice of violation and remediate the situation.

Ms. O'Hare noted that if Mr. Woronick is going to continue to brush hog within 50 ft. of a pond, he either needs a permit to continue or remediate, which brush hogging is not. She asked the IWWC if they want Mr. Woronick to brush hog to the water's edge, or to stop brush hogging up to 30 ft. of the pond. She said the IWWC must establish a dimension and Mr. Woronick needs either an application or a remediation order.

Mr. Kern asked how many ponds in Town are being maintained that the IWWC doesn't know about. He said we need to notify the property owner that this activity cannot continue. Mr. Kern asked if the owner can plant in the URA. Ms. O'Hare said the Chairman does sometime grant administrative approval for activity close to the wetlands.

Acting Chair Parent said he believes the best way to handle this situation is to withdraw the letter and to have the property owner come in for a permit, stating that Ms. O'Hare has raised the proper issue of what brush hogging entails and these questions can be best addressed with an application.

Mr. Kern didn't agree stating this issue falls under maintenance which doesn't require a permit. Acting Chair Parent said he is seeking a mechanism which puts the property owner on notice that the land can be maintained. Ms. O'Hare noted the pond is only brush hogged on one side and would like the other two sides to remain untouched. Mr. Kern said a stopping mechanism is needed and suggested something be put onto the deed for future property owners.

Acting Chair Parent said there is a potential solution, but there needs to be a way to put this into writing so it would appear on the Land Records so the new owner has notice of what is involved with the property. He suggested tabling this item until May when Chairman Vitali is present. Mr. Kern suggested using the Letter as remediation to the Notice of Violation and attaching it to the Land Records. Acting Chair Parent suggested consulting with the Corporation Counsel, tabling this issue until May to come up with something to preserve the wetlands.

THE COMMISSION AGREED TO TABLE THIS ITEM TO THE MAY MEETING.

ADJOURNMENT

Ms. Phillips made a motion to adjourn the Meeting at 8:51 p.m. Mr. Caruso seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary