

**INLAND WETLANDS AND WATERCOURSES COMMISSION**

**TOWN OF WALLINGFORD**

**REGULAR MEETING**

**WEDNESDAY, MAY 1, 2013**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, May 1, 2013, in Room 315, Town Hall, 45 South Main Street, Wallingford, Connecticut.

Seated Commissioner were Ellen Deutsch-Vice-Chairperson, Nick Kern – Secretary, Dennis Murphy, Deborah Phillips – alternate and Environmental Planner Erin O'Hare .

Absent: Jim Vitale, Chairman; Dave Parent, Jim Dobson, alternate.

Vice-Chairperson Deutsch, acting as Chairperson in Chairman Vitali's absence called the meeting to order at 7 p.m.

**CONSIDERATION OF MINUTES:**

March 6, 2013 – Regular Meeting.

**MR. KERN: MOTION TO APPROVE THE MINUTES OF THE MARCH 6, 2013 MEETING**

**AS SUBMITTED.**

**MR. MURPHY: SECOND**

**VOTE: UNANIMOUS**

Acting Chairperson Deutsch, took the agenda in the following order:

**OLD BUSINESS**

2. **#A13-3.1/LINEY HALL LANE/MUDDY RIVER – RESIDENTS OF LINEY HALL LANE – (bridge reconstruction)**

Ms. O'Hare said the Applicant submitted a letter requesting this matter be tabled.

Acting Chairperson Deutsch tabled the matter.

**NEW BUSINESS:**

- #D13-4.1/180 NEW CHESHIRE ROAD – AIRPORT GROWERS LLC – (Request for Determination of Exemption under Section 4.1.a – greenhouses/stormwater discharge)**

Presenting the application was Attorney Anthony Fazzone representing John Casertano, Airport Growers, LLC , and Rosalind Page, Winterbourne Land Services.

Ms. O'Hare, who passed around photos of the existing property improvements, said this is an agricultural exemption request which may be acted on at the first meeting. She said she believes the Applicant is eligible for an exemption under the agricultural section of the regulations. She said if the Commission disagrees, the regular wetlands application, also filed, will be considered. Ms. O'Hare said there is a permit going back to 2001 for four greenhouses and various property improvements which was not done. She said the work on the storm basins was completed. The Applicant went in front of the Commission in 2007 and received a permit modification to construct one greenhouse. Ms. O'Hare said the permit which was granted in 2001 was extended in 2006. This extension expired in August, 2011. Besides constructing the greenhouse, Ms. O'Hare said the Applicant made improvements to the property but the permit has expired. She said this application would be a new activity to construct two additional greenhouses.

Mr. Casertano said he is basically continuing what was already approved within the footprint but on a smaller scale. He said the footprint was originally for a seven-acre greenhouse structure. Presently, there is 54,000 square feet and he plans on adding 80,000 square feet for a total coverage of three acres, existing and new, which is a smaller version of the original seven-acre approval. Mr. Casertano said this plan has a third greenhouse but presently, have no plans to construct the full six greenhouses.

Ms. O'Hare said this Applicant is not filling or impacting wetlands or watercourses and this is why these greenhouses can be constructed under the agricultural exemption. Ms. O'Hare noted if the next set of greenhouses were to be constructed, another exemption would be needed. The only activity within 50 feet of the storm basin is discharge of new roof flows. Flow calculations were submitted to the Commission.

Attorney Fazzone said if the exemption request is granted, the Applicant would withdraw the application.

**MR. KERN: MOTION TO GRANT THE EXEMPTION UNDER SECTION 4.1.a – GREENHOUSES/STORMWATER DISCHARGE –AS REQUESTED FOR APPLICATION #D13-4.1/180 NEW CHESHIRE ROAD – AIRPORT GROWERS, LLC.**

**MR. MURPHY: SECOND**

**VOTE:UNANIMOUS**

The Commission requested that any scope of work done outside the scope of determination must be reviewed by Ms. O'Hare and a new permit issued.

The Applicant withdrew the application and a letter will follow.

**VIOLATIONS:**

## 6 EAST DAYTON HILL ROAD – DOUGLAS MORGAN - (clearing, filling)

Ms. O'Hare presented an overview. She said the original Cease and Desist Order was issued Oct. 1, 2012. The Commission conducted a site investigation on November 20, 2012. She said approximately 20 truckloads of fill was deposited on the property and a stream was altered. Ms. O'Hare said, at that time, Mr. Morgan was given verbal and written directives to remove as much fill as possible on the property, and submit a drainage plan which would be revisited in the Spring. Ms. O'Hare said no drainage plan has been submitted, fill has been removed at the base of the trees, but really must be removed out to the tree's dripline. Ms. O'Hare said fill has been moved around on the property, but not removed and additional fill has been brought in and compacted. She said a circular roadway has been completed at the rear of the property and a ponded area has been excavated in the stream. A berm has been created between Mr. Morgan's property and an abutting neighbor's property. Ms. O'Hare said the property has been improved, but the improvements violate the orders given to Mr. Morgan last fall. Ms. O'Hare said the Law Department has recommended the Commission proceed to make findings of the violation followed by a vote.

Commissioner Kern indicated he and Acting Chairperson Deutsch had recently been to the site and he asked Ms. O'Hare about the Engineering Department installing a catch basin on the property to allow for the drainage of water. Ms. O'Hare said Rob Baltramaitis, Assistant Town Engineer, reviewed the matter in the field and he agreed a catch basin would work. He said Mr. Morgan would have to install a pipe under East Dayton Hill Road and put a catch basin.

The Commission directed Mr. Morgan to submit to Ms. O'Hare a drainage plan drawing (11" by 17") by May 10, 2013. Commissioner Kern asked Mr. Morgan to prepare before and after photos of the property and photos showing how the water is being retained on the property. He said the water which ponds at the end of the driveway, must be drained from the property because it could be a public safety issue when it flows onto East Dayton Hill Road. The Commission asked Ms. O'Hare to speak with the Engineering Department regarding the town installing the catch basin.

Ms. O'Hare recommended an "After the Fact" application. Acting Chairperson Deutsch said if everything had been taken out there would be no need for an "After the Fact" application because the Commission has the original map.

The Commission directed Ms. O'Hare to send a letter to Mr. Morgan regarding the possible direction the Town will take with the issue of water draining from the property and the catch basin.

Ms. O'Hare asked if the Commission wanted a wetlands permit to construct the catch basin because this will involve digging from the stream through 10-feet of wetland area and laying a pipe between the stream diagonally.

Commissioner Kern said the Town owns the first 10-foot right of way so this would be a Town issue.

There was much discussion about a possible application. Mr. Morgan was directed to submit an after-the-fact application with drawing for the June 5 meeting.

**1146 NORTH COLONY ROAD – NORTH COLONY DEVELOPMENT GROUP, LLC**  
(clear-cutting activities)

Presenting the application was Steven Zion of North Colony Development Group, LLC., and Gary Greenalch, Pacesetter Construction.

Ms. O'Hare presented the Environmental Planner's Report. She said the site was investigated on April 18 after the receipt of an anonymous tip that clear cutting had been conducted in an apparent wetland area. She said clear-cutting is allowed under zoning, but not in the jurisdictional area, which is the wetlands and the 50-foot surrounding the wetlands. She said the owner had hired an engineering firm which had indicated to the owner there were no wetlands. Ms. O'Hare said the wetlands are located in a very small area on the southeastern border approximately 40 ft. by 20 ft. She there is a seepage area that runs across a neighbor's property. Ms. O'Hare said a violation letter was sent out requesting wetlands soil mapping which was submitted. There was also a request by the Commission for the owner to mark off the 50-foot area around the wetlands so that no further work would be done in that area. This was done.

Ms. O'Hare said no clearing or grubbing has taken place, but if the owners wish to do this, they must obtain a Planning and Zoning permit. Ms. O'Hare said there is no erosion taking place, and the large amount of cut material acts as mulch on the property which is steep and sloping. Ms. O'Hare distributed photos of the property to the Commission.

Ms. O'Hare suggested the Commission consider a re-planting plan for the area. She said she visited the area again today, and noted that nine large trees had been cut down in the jurisdictional area along with five smaller trees. She said most of the vegetation was shrubs and vines. Ms. O'Hare said she had spoken to the soil scientist who indicated most of the vegetation that was cut would probably grow back. She suggested returning to the area in approximately one month's time to see what vegetation is alive before recommending the re-planting of native plants. She will contact owner about the need for planting at that time.

Mr. Greenalch said there will be a lot of re-grading on the site. He said they had no idea the wetlands were located on the property. Silt fencing or haybales will be put around the wetlands area to protect it and nothing else will be done at the site until plans are submitted. He indicated the State directed them to keep all storm water on the site when developed. He said they are planning to plant trees near the area in the near future to not only protect the wetlands but to satisfy the neighbors.

Acting Chairperson Deutsch suggested the owners draw up a plan of what they will put around the wetlands and the 50-ft buffer and how it would be protected and present this plan to the Commission in June. The Commission also requested the owners do a re-creation of what plants and vegetation would be put on the property that would be aesthetically pleasing to the area and to the public.

Ms. O'Hare said the owners should apply for a stumping permit if needed and later on apply for a site-development permit.

**OLD BUSINESS:**

**#A04-4.1B/1365 DURHAM ROAD – (request – permit extension)**

Ms. O'Hare said this permit involves a two-lot subdivision in which a bridge driveway was constructed over Spring Brook on Durham Road. She said the Permittee is interested in a permit extension. The bridge driveway is half of the Permittee's (shared driveway) so the permit has already commenced. She said the rest of the lot is undeveloped. Ms. O'Hare said the original permit was approved in November 2004 and would have expired November 2009. She said in December 2009, the Commission acted upon the Permittee's request for a permit extension for a two-year period to November 2011. Ms. O'Hare said in 2011 the Legislature passed a law allowing the extension of this permit to November 2013. Ms. O'Hare recommended, based on the Law Department opinion, that the Commission extend this permit retroactively to expire in November 2013. She noted that in November this permit would be eligible for renewal for another five years.

**MR. KERN: MOTION TO APPROVE PERMIT EXTENSION AS SUBMITTED FOR THE ONE-YEAR PERIOD FOR APPLICATION #A04-4.1B /1365 DURHAM.**

**ROAD.**

**MR. MURPHY: SECOND.**

**VOTE: UNANIMOUS.**

Ms. O'Hare was directed to notify the Permittee of the need to request a renewal.

**#A13-4.1/404,408 & 412 MAIN STREET, YALESVILLE – Lawrence DeAntonio – (request for permit commencement extension re: #A11-4.1)**

Ms. O'Hare said this application was originally approved in June 2011, and in May 2012, the Commission approved a one-year extension of the commencement date so that the expiration date would now be June 2013. She said the Permittee is requesting an additional one-year extension which would be the second extension of the commencement date.

**MR. KERN: MOTION TO GRANT THE PERMIT COMMENCEMENT EXTENSION FOR ONE-YEAR FOR APPLICATION #A13-4.1/404, 408 & 412 MAIN**

**STREET, YALESVILLE – Lawrence DeAntonio, RE: #A11-4.1**

**MR. MURPHY: SECOND**

**VOTE: UNANIMOUS**

**E. NEW BUSINESS**

**#A03-12.3/59 NORTH PLAINS HIGHWAY/Joseph Richello – (office/storage building)-**  
consent to transfer permit

Ms. O'Hare said a request to transfer permit needs the consent of the Commission. She noted that 59 North Plains Highway, appearing twice under New Business, is one piece of property but has two permits on it: one is the office/storage building that was approved in 2003 and the other is the soccer field that was approved in 2010.

**MR. KERN: MOTION TO APPROVE # A03-12.3/59 NORTH PLAINS HIGHWAY**  
**CONSENT TO TRANSFER PERMIT AS REQUESTED**

**MR. MURPHY: SECOND**

**VOTE:UNANIMOUS**

**#A10-4.2/59 NORTH PLAINS HIGHWAY - Joseph Richello – soccer field – consent to**  
transfer permit.

**MR. MURPHY: MOTION TO APPROVE CONSENT TO TRANSFER PERMIT AS**  
**REQUESTED FOR #A10-4.2/59 NORTH PLAINS HIGHWAY**

**SECOND: MS. PHILLIPS**

**VOTE: UNANIMOUS**

1. **#A09-10.1/103 NORTH TURNPIKE ROAD/QUINNIPIAC RIVER – Yalesville**  
**Properties, LLC – consent to transfer permit**

**MR. MURPHY: MOTION TO APPROVE CONSENT TO TRANSFER PERMIT AS**  
**REQUESTED FOR #A09-10.2/103 NORTH TURNPIKE**

**ROAD/QUINNIPIAC RIVER YALESVILLE PROPERTIES, LLC**

**SECOND:MS. PHILLIPS**

**VOTE: UNANIMOUS**

#### **F. RECEIPT OF NEW APPLICATIONS**

1. **#A13-4.2/9 DOHERTY DRIVE – Jessica P. Couzens(fencing) – Received.**
2. **#A13-4.4/QUINNIPIAC RIVER/155 EAST STREET/WILBUR CROSS HIGHWAY**  
**– Town of Wallingford Sewer Division – (sewer utility installation) – Received.**

#### **G. REPORTS & COMMUNICATIONS**

1. **Staff Report, dated Mar. 28**

(Distributed in the packet) - Not taken up.

**2. Staff Report, dated April 25**

(Distributed in the packet) – Not taken up.

**3. Stormwater management maintenance – report**

Ms. O'Hare briefly reviewed an opinion in the Law Department memorandum affirming the IWWC's authority to regulate storm water management maintenance.

**4. DEEP Notice of Tentative Determination To Approve DPDES Permit Renewal – Town of Wallingford Sewer Division – domestic wastewater treatment: submitted 3/14/13.**

**5. DEEP Permit Application For the Use of Pesticides in State Waters – 415 Barnes Road – Geremia Greenhouses – for “greenhouse pond”, submitted 3/19/13.**

**6. Southwest Conservation District newsletter, Spring 2013**

**7. CT Federation of Lakes – newsletter, March 2013.**

**8. DEEP Permit Application For the Use of Pesticides in State Waters – Summerhill Road – Preserve Condominiums Ponds; submitted 3/28/13.**

**9. Algonquin Gas Transmission, LLC – C-7-12” Pipeline Integrity Project (1.18 mi) – Wallingford, CT – notification letter from TRC Environmental; submitted 3/28/13.**

**10. Town Council Budget Hearing, 4/29, 6:30 p.m., Town Hall**

Not taken up.

**I. ADJOURNMENT**

Commissioner Murphymade a motion to adjourn. The motion was seconded by Commissioner Phillips and passed. The meeting adjourned at 8:29 p.m.

Respectfully Submitted,

Cynthia A. Kleist

Recording Secretary.