

WALLINGFORD INLAND WETLANDS & WATERCOURSES COMMISSION

WEDNESDAY, MAY 4, 2016

ROOM 315 – 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, May 4, 2016 in Room 315, 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 and Erin O'Hare, Environmental and Natural Resources Planner.

Chairman Vitali called the Meeting to order at 7:00 p.m. and the Pledge of Allegiance was led by former Town Council Chairman Robert Parisi.

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

CONSIDERATION OF MINUTES

1. Regular Meeting, April 6, 2016 – 7:00 p.m.

MR. KERN: MOTION TO APPROVE THE REGULAR MEETING MINUTES OF APRIL 6, 2016 AS PRESENTED

MR. PARENT: SECOND

VOTE: KERN-YES; PARENT-YES; PHILLIPS-YES; PORTO-YES
VITALI, CARUSO AND MURPHY ABSTAINING

PUBLIC HEARING ITEM

1. Proposed revisions to Regulations: Section 4 & Sections 7-11; new Section 12, and re-numbering of Sections 1-20.

Chairman Vitali opened the Public Hearing at 7:02 p.m. He said many of the requests for change in the Regulations were as simple as changing a word and noted the State requested

some clarification and the IWWC spent many hours reviewing. He said the changes were also reviewed by the Town Law Dept.

Ms. O'Hare said this was publically noticed as required allowing the full 35 day notice to the State which sent a receipt and the notice was posted in the Town Clerk's office and posted in the local newspaper. She said the proposed revisions were accepted at the IWWC March meeting and nothing has changed since then. Christopher Juliano, of Juliano Associates, who attended the workshop said he had no additional comments on the proposed Regulations.

Chairman Vitali closed the Public Hearing at 7:05 p.m.

The Commission had no questions about the proposed Regulations. Chairman Vitali entertained a motion to approve the proposed Regulations.

3. CONSIDERATION OF PUBLIC HEARING ITEM

**MR. PARENT: MOTION TO APPROVE THE PROPOSED REVISED REGULATIONS
SECTION 4 & SECTION 7-11, NEW SECTION 12, AND
RE-NUMBERING OF SECTIONS 13-20**

MR. MURPHY: SECOND

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

NEW REGULATIONS APPROVED

Ms. O'Hare will send the State a final amended copy as required.

OLD BUSINESS – None.

NEW BUSINESS

1. **#216-4.1 /180 Hanover Road/**John Casertano, Airport Growers, LLC – Request for Determination of Exemption under Section 4.1.a. – (two planting beds in proposed lease area)

Chairman Vitali noted there is a Regulation in the manual which speaks about agricultural exemption which is the nature of this request. He said the Applicant wants two planting beds to be located in the lease area.

Ms. O'Hare made the presentation for the Applicant John Casertano, who could not attend the meeting. Ms. O'Hare went over Section 4 of the Zoning Regulation Permitted Uses and 4.1.a (agriculture) and said this request falls under the nursery category because the Applicant does

container gardening. Ms. O'Hare pointed out the State notified the Applicant there are box turtles and a rare plant on this site. She said Mr. Casertano will work with a State botanist on the site and relocate the plants if necessary. Ms. O'Hare said she believes Mr. Casertano can be exempted under Section 4.1.a because he is not directly impacting a wetland area watercourse. Ms. O'Hare said the site of the proposed planting bed site is located at the southern edge of the Meriden-Markham Airport on Hanover Road. She said Mr. Casertano will be leasing the area from the Airport and will install the two 75 ft. wide planting beds; one being 450 ft. long and the other is 720 ft. long. Ms. O'Hare said the beds will be leveled and the containers will be placed on top of the beds.

Chairman Vitali asked why the Applicant needed to apply for an exemption request. Ms. O'Hare explained the Applicant needs an exemption permit because some of the activities will be in the Upland Review Area and when he waters the plants, some will run off into a small pond near the cattails. She said the applicant also has to fill in a ditch on the north side of the road with 4,500 cu. yds. of dirt.

Chairman Vitali said he had no problem granting this request. Commissioner Heilman said everything requested by the Applicant was done well, is a mark of integrity and is an agricultural activity and the plan shows us clearly what is going on and is a great use of this piece of property.

Commissioner Kern asked where the 4,500 cu. yds. of material was coming from and if Ms. O'Hare was concerned. Ms. O'Hare said she wasn't sure where the material was coming from but would find out. Commissioner Kern said it would be good if on-site material was used.

Chairman Vitali entertained a motion on the application at this time.

**MR. PARENT: MOTION THAT APPLICATION #D16-4.1/180 HANOVER ROAD/
JOHN CASERTANO, AIRPORT GROWERS, LLC – REQUEST FOR
DETERMINATION OF EXEMPTION UNDER SECTION 4.1. a -
(TWO PLANTING BEDS IN PROPOSED LEASE AREA BE APPROVED
AS AN EXEMPTION UNDER SECTION 4 REGULATED USES**

MR. MURPHY: SECOND

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

APPLICATION APPROVED

RECEIPT OF NEW APPLICATIONS

1. **#A16-4.2/211 East Main Street** – The Choate Rosemary Hall Foundation, Inc., - (installation of underground conduit associated with weather station) – administrative approval.

Chairman Vitali said this was not only an administrative approval request, but a request for the Kohler Environmental Center at Choate. Ms. O'Hare explained said this conduit will be underground, but where it comes into the regulated area, the conduit will not be underground. She explained that when the pedestrian footbridge was built there are conduits going under the decking of the bridge and not affecting soil in our jurisdiction.

Chairman Vitali granted an administrative approval on this application and took the agenda in the following order.

ELECTION OF OFFICERS – (Acted upon later in the agenda).

REPORTS & COMMUNICATIONS

1. **#A14-5.3/59 & 65 North Plains Highway** – Wallingford Group, LLC – compliance with permit terms.

Ms. O'Hare said this issue was first discussed at the March IWWC meeting. She said Mr. Gavin wants to comply with the approval he received from the IWWC, but noted that he received his Army Corps of Engineers permit and believed he could move ahead but cannot because the stone he wants to install on the streambank near N. Plains Hwy, needs the approval of the Army Corps. Ms. O'Hare said she contacted the Army Corps and was told the remaining work of the IWWC approval could be tagged onto the existing permit for free. She said she informed Mr. Gavin but has not received a response. She said she suggested in writing that Mr. Gavin contact the Army Corps.

Ms. O'Hare said the request to eliminate the required installation of the three recharge galleys was denied by the IWWC. She requested permission to go see the condition of the three areas, but has not received word back from the owner.

2. **#A13-10.2/Quinnipiac Rive Linear Trail** – Phase III-status

Ms. O'Hare said this is not ready for submittal. She said she is looking for a planting plan and noted one of the conditions of approval was a detailed planting plan to replace trees which were removed in the access way which runs down Warehouse Point Road. She said once the project is completed, the access way will be removed which will leave a wide area along the Wilbur Cross. She said the replanting of trees in the access way was not included in the contract. Ms. O'Hare said the botanist from Milone & MacBroom will submit a plan for the plantings soon with plant installation to be completed by June 15. She said an Administrative Approval will have to be granted before June 1.

Commissioner Kern asked about the pond remediation and where the funding came from. Chairman Vitali asked how emergency vehicles would be able to access this length of linear trail, noting the footbridge was not fit for emergency vehicles. He commented that the access road may not be a bad thing to leave in place. Ms. O'Hare said the Warehouse Point Road property owners don't want the access road and it is not considered safe.

3. **252 Main Street, Yalesville** – Brother's Pool – staff

Ms. O'Hare said this is a violation and noted she and the Zoning Enforcement Officer went to the site and discovered the owner had constructed 100 ft. long shelving units, 12 ft. high and 6 ft. wide on the vegetative buffer where the IWWC had directed the owner to plant 15 pussy willows and other shrubs which she noted were already planted once when they were demolished by trucks and then they were replanted and now they are gone. She distributed photos to the Commission. Ms. O'Hare noted there is a container on the riverbank filled with miscellaneous items and also paving equipment and a filled dumpster which was not approved by the IWWC which blows items into the river.

Commissioner Kern said Ms. O'Hare and the ZEO should first make contact with the owner and determine the reason for doing this and that it is not authorized. Commissioner Kern said the owner has not lived up to his end of the bargain noting the Town paid the price the last time this was done, noting material from the site washed down the river after a flood.

Chairman Vitali asked if this was a zoning or wetlands violation. Ms. O'Hare commented it was both. Chairman Vitali said Ms. O'Hare and the ZEO should contact the owner to discuss it and he should come before the IWWC at the next meeting on June 1. Commissioner Heilman said all of this should be removed ASAP or be slapped with a violation in 24 hours. Chairman Vitali said this is why violations are going to be on the Land Records.

4. DEEP – Municipal Inland Wetlands Agency Comprehensive Training Program- brochure & registration – distributed by Ms. O'Hare to the Commission.

VIOLATIONS

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

Appearing in front of the Commission was Dave Woronick, 339 Barnes Road, property owner who told the Commission he had nothing to do with the violation and that he purchased the home with the existing lot. He said the prior owners had a race track and the neighbors were opposed to trees that were cut and the driving of ATV's and motorcycles. He said Ms. O'Hare came to the site and saw the racetrack and wanted the Commission to do a site visit which was refused.

Chairman Vitali told the Mr. Woronick that he doesn't want to re-plant the trees which were cut down, but to just keep brush hogging. Mr. Woronick said he brush hogs to keep the property

up and intends to sell this lot. Commissioner Kern said he is afraid of invasive species and suggested at the last meeting putting something on the deed where no more encroachment allowed, but to groom and maintain the property by brush hogging.

Mr. Woronick asked if someone would have to mow this three-acre lot with a pond, would this be mandatory. Commissioner Kern noted the person would come before the Commission requesting permission to maintain the property for aesthetics which requires either an application or a conversation with the Environmental Planner to go forward with this. He said there are numerous places in Town which do this.

Commissioner Heilman said this issue is describing a transition, noting that if an open field is abandoned, the first thing which will appear is invasive species but pointed out they don't last and are usually gone within 15 years, and other saplings will come up and canopy over these invasive. He said it depends upon what the property owner wants in the long run and that the concern of the Wetlands Commission. Mr. Woronick noted he has been before the Commission for many years and has never had a problem.

Commissioner Kern asked Ms. O'Hare if she spoke to Corporation Council Janis Small to determine whether this violation could be put on the deed. Ms. O'Hare said she didn't do this, but said the Commission has to first vote to confirm this issue is a violation, and then vote to put the violation on the Land Records. Commissioner Kern said the owner has a violation and something needs to be done to overturn the violation. He asked Ms. O'Hare that if by putting this on the Land Records, would this be significant enough to pacify so it wouldn't happen again. He asked her what her recommendation for remediation of the violation would be.

Ms. O'Hare said people should come in for permits if they want to do something near a pond. She said Mr. Woronick should stop cutting and the next owner should decide what they want to do and come before the Commission for permitting. Chairman Vitali said he understood what Commissioner Kern wanted on the deed was that the next buyer understand there is a wetlands issue on this property.

Chairman Vitali suggested installing placards in the remaining upland review area or the edges of what has been mowed, so future owners realize there is a wetland area. Commissioner Kern said there is still the issue of how to remediate the violation and how to make the violation go away. Chairman Vitali explained that remediation is looking to replant what was there and staying out of the area. Commissioner Heilman said the question is what piece of land this upland review area is protecting. He noted that reclamation would be allowing this area to return back to its natural state. Chairman Vitali said he sees the value in mowing the area but can see the value of leaving it to regenerate. He said he would agree with whatever the Commission chose to do. Commissioner Kern wondered if Ms. O'Hare has the property owner install the 25 shrubs, would they be able to survive in this environment over this period.

Christopher Juliano noted that if the IWWC wanted something on the land records, a conservation easement could always be obtained which would flag a prospective buyer and

attorney. Mr. Woronick said he was in agreement with this statement. Commissioner Kern said he would like to see placards every 50 ft. Mr. Woronick said he would install the placards onto the trees, subject to Ms. O'Hare's approval.

Ms. O'Hare pointed out that a few months ago, Atty. Small said nothing could be put onto the Land Records because the IWWC never voted on a Notice of Violation. Chairman Vitali said Mr. Woronick was volunteering to accept a conservation easement on the property.

Ms. O'Hare asked the Commission to first affirm the Notice of Violation which went out several months ago and then act on the remediation would be to do the placards and conservation easement.

Chairman Vitali entertained a vote on the Notice of Violation.

MR. PARENT: **MOTION THAT THE NOTICE OF VIOLATION FOR 3 POWERS ROAD, DAVE WORONICK, GREENE D.H. WORONICK, UNPERMITTED, UNAUTHORIZED CLEARING IN UPLAND REVIEW AREA BE AFFIRMED**

MR. MURPHY: **SECOND**

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

Chairman Vitali entertained a motion regarding the remediation from this violation.

MR. PARENT: **MOTION THAT THE REMEDIATION OF THE VIOLATION AT 3 POWERS ROAD WHICH HAS BEEN AN AFFIRMED VIOLATION BY THIS COMMISSION BE REMEDIATED BY:**

1. **CONTINUING TO BRUSH HOG THE AREA AS NEEDED WITHIN 10 FT. OF THE CREST OF THE TOP OF THE SLOPE ADJACENT TO THE POND AND:**
2. **THAT THE AREA BE PLACARDED AS APPROPRIATE**

MR. MURPHY: **SECOND**

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

Chairman Vitali indicated Ms. O'Hare will direct location of placards on posts or trees.

2.266 Pond Hill Road – Notice of Violation – Christopher Cerrito – (removal of vegetation, clearing, grading, deposition of fill in wetlands and upland review area and disturbance of streambank.

Appearing in front of the Commission was Christopher Cerrito, 180 Pond Hill Road and of 266 Pond Hill Road, owner who distributed photos of the property to the Commission. Ms. O'Hare referenced her Notice of Violation which was included in the Commission's packets and passed around color photos of the violation area. She said she was pursuing a different violation when she discovered this violation. She said she spoke to Mr. Cerrito regarding the area not being vegetated. She said a lot of clearing was done within the IWWC's jurisdiction. She said there is a stream in the back and there has been bulldozing near the stream and soil compaction. She said she advised Mr. Cerrito to install silt fencing in that area and a permit was needed which wasn't obtained. Ms. O'Hare said some of the area in question was filled noting that minor grading is considered filling.

Chairman Vitali noted that fill wasn't brought in, just a regrading of the existing area. Mr. Cerrito, 180 Pond Hill Road, said the land was unsightly and when the owner passed away, he purchased the property and wanted to make it look nice. He said when he purchased the property he had no idea there was a stream in the rear of the process because that area was overgrown. He said there is also a big drainage pipe from nearby condos which eventually eroded into a big gully. He said he also didn't realize there were wetlands. Mr. Cerrito said when he received the Notice of Violation; he had a silt fence installed as directed.

Chairman Vitali asked what Mr. Cerrito's intentions were when he cleared the property. Mr. Cerrito said he wanted to plant grass and install a lawn and said he had no intention to construct anything just rent out the small existing home. Chairman Vitali asked Ms. O'Hare if the watercourse in her photo was dry. Ms. O'Hare said the watercourse was running. Mr. Cerrito pointed out the watercourse is only running when it rains. Chairman Vitali noted there seemed to be quite a disturbed area back there.

Commissioner Kern asked how many trees were cut down. Mr. Cerrito said approximately 30 trees were felled. Commissioner Heilman said the reclamation is similar to South Elm Street near S. Main Street where the area near the streambed was cleared. He said that reclamation was simple because of the environment and believes this is simple by putting in a few plantings and didn't think there was much damage. He suggested letting the skunk cabbage remain. Chairman Vitali suggested allowing the area to revegetate and said the drainage swale must be crossed and is definitely a wetlands issue. He told Mr. Cerrito he needs to obtain a permit for the brook crossing and explain his intentions for the other side. He said on the other side of the property, there is a question of whether the skunk cabbage is upland review area or wetlands.

Ms. O'Hare suggested that Mr. Cerrito get quotes from a soil scientist or that the Commission perform a site visit. Chairman Vitali said Mr. Cerrito must come up with a plan and noted he

had no problem with him planting a lawn 50 ft. away but the biggest issue is leaving the 50 ft. area alone from the brook course.

Commissioner Heilman said if the area is wetlands, the upland review area extends 50 ft. from that wetlands and if that is the case, this casts an entirely different light on this subject.

Commissioner Kern suggested having a soil scientist flag the area. Chairman Vitali suggested leaving the area intact and obtain a report from a soil scientist and inform Ms. O'Hare about the report with a map and bring the report to the June 1 IWWC meeting. He asked Mr. Cerrito to immediately seed down the property to alleviate erosion.

NO ACTION TAKEN

RECEIPT OF NEW APPLICATIONS

3. **#A16-4.4/195 Chimney Hill Road** – Sunwood Development Corp. – (modification to permit **#A14-7.2 – Lot#16, 250 New Cheshire Road** – accepted by Chairman Vitali.

4. **#A16-4.5/29 Toelles Road** – Greg Cherok, Project Engineer, Fed Ex Ground – (parking area expansion, filling existing stormwater basin, drainage changes) – accepted by Chairman Vitali.

2. **#A16-4.3/103 North Turnpike Road** – Joseph Richello – (apartment complex & facilities building) – accepted by Chairman Vitali.

Appearing in front of the Commission was Christopher Juliano, Licensed Land Surveyor and Professional Engineer, Juliano Associates.

Chairman Vitali indicated Mr. Julian was welcome to discuss the application (received tonight) with the Commission.

Mr. Juliano indicated he was interested in the Commission's feedback , if they would allow him some time. He went over the site plan and noted the previous approval for this site was for a commercial retail building. He noted the flagged inland wetlands, the upland review area and the buffered disturbance. Mr. Juliano said there is 1,100 ft. of actual wetland disturbance on this site but noted that area is mowed continually and there has been some work done in the cleared area historically. Mr. Juliano said a 36-unit residential apartment building and an associated 6,000 sq. ft. maintenance and storage building. He said there is a lack of storm dumpedrainage and noted the previous project took the stormwater runoff and deposited it into swales and dumping it into a large excavated area. He said the current project proposes to pave the parking area just past the entrance drive and around the building and maintenance area with porous pavement which will store all of the stormwater and perk naturally into the ground.

Chairman Vitali expressed concern regarding the pervious pavement noting it takes into no consideration the cars and the contaminants they generate. He spoke about the filter layer,

noting that because it will be under the pervious pavement, there will be no opportunity to clean the filter layer. Mr Juliano cited a study done by the Univ. of New Hampshire which stated most of the contaminant can be filtered out. He said the area will not be sanded or salted, just plowed of snow. He said the amount of drippings off of a car from a residential community would be much less than commercial because of less traffic. He said with this plan, the water will roll off the pavement and into the grass swale with no treatment.

Chairman Vitali noted that with no treatment, there will be a choker layer that eventually will be choked out. Mr. Juliano said there are studies indicating the pavement still works 20 years later. Chairmana Vitali asked how no sand and salt will work with a 36 unit apartment complex and asked if the pavement would be heated. Mr. Juliano said the sun will melt the snow and it will disappear without storm drainage. He noted Yale University has used this idea.

Chairman Vitali asked what would happen if there were no sun for two to three days and noted that particular lot was shaded. Commissioner Kern said he wasn't comfortable with the change of use. He asked the difference in elevation of the apartments versus the retail. Mr. Juliano said the retail was proposing 48.1 and this proposal is 47.5. He said this has been kept lower based on what is needed for storage. Commissioner Kern said much of the area is under water and mosquitoes could be a problem. He questioned the traffic flow of the apartments. Mr. Juliano said the previous use had eight retail units and noted retail has more traffic flow than residential. He pointed out the owner is considering elderly apartments. Commission Kern said he also wasn't comfortable with the storage building. Mr. Juliano said the storage units will be 36 5x5 storage units and the building will be three stories with 12 units on each floor which range from one, two and three bedrooms. Chairman Vitali said this couldn't be considered elderly apartments.

Commissioner Heilman asked about the snow removal. Mr. Juliano said the snow would go along the edges and be outside the existing clearing. He said he isn't expecting a full parking lot and snow can be deposited adjacent to the parking areas. Chairman Vitali asked about the impact to the wetland areas. Mr. Juliano said there will be 1,080 sq. of direct wetland impact in a tongue shaped area and less than 25,000 sq. ft. of upland review area.

Commissioner Kern said he believed this project was over-built and noted that an elderly person would not climb three floors. Mr. Juliano pointed out there will be elevators in the building. Chairman Vitali suggested the Applicant eliminate the self-storage building and obtain additional information on the pervious surface.

THIS APPLICATION WILL BE FORMALLY PRESENTED AT THE JUNE 1, 2016 IWWC MEETING.

ELECTION OF OFFICERS

MR. PARENT: MOTION TO NOMINATE ALL PRESENT OFFICERS TO ANOTHER

TERM

MR. MURPHY: **SECOND**

VOTE: **UNANIMOUS**

The slate of officers: James Vitali-Chairman; Dave Parent-Vice-Chairman; Nick Kern-Secretary; Commissioners Dennis Murphy and Deborah Phillips; Alternates Daryll Porto, James Heilman and Michael Caruso.

ADJOURNMENT

Chairman Vitali adjourned the Meeting at 9 p.m.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary