

Wallingford Inland Wetlands & Watercourses Commission

Wednesday, June 6, 2018, 7:00 p.m.

Robert F. Parisi Council Chambers, Second Floor, Town Hall

45 South Main Street, Wallingford, CT

MINUTES

PRESENT: Vice-Chair David Parent (Acting as Chair); Commissioners Deborah Phillips; Nick Kern, Secretary; Robert Simon (alternate); Aili McKeen (Alternate); Erin O’Hare Environmental Planner.

NOT PRESENT: Chair Jim Vitali; Commissioners Daryll Porto and Michael Caruso.

Acting-Chair Parent called the Meeting to order at 7:04 p.m. and the Pledge of Allegiance was recited.

CONSIDERATION OF MINUTES

1. Regular Meeting, April 4, 2018 – TABLED
2. Regular Meeting, May 2, 2018

MS. PHILLIPS: MOTION TO APPROVE THE MAY 2, 2018 MEETING MINUTES AS PRESENTED

MR. KERN: SECOND

VOTE: PARENT – YES; MCKEEN – YES; KERN – YES; (PHILLIPS AND SIMON ABSTAIN)

D. OLD BUSINESS – NONE

E. NEW BUSINESS

1. **#A13-7.4/58 & 88 Woodhouse Avenue** – Donald R. Ahearn – (36-unit apartment complex, one free-standing unit & construction of stormwater facilities in Woodhouse Ave.) – Request for extension

Appearing in front of the IWWC was Atty. Joan Molloy, Loughlin Fitzgerald on behalf of the Permittee, Donald R. Ahearn.

Ms. O’Hare said the Law Dept. has always noted that for extensions, the IWWC can act to extend if there are no violations or no new conditions on the property. Ms. O’Hare noted there are two violations on the property that was known five years ago when this was approved. She said cleaning up those violations was folded into the approval five years ago. Ms. O’Hare said one of the violations had to be addressed within one year of commencement which never happened. She said she had no problem with the extension, but wanted to see these violations addressed, noting that if the IWWC just extends this application another five years, no one would know when these two violations would ever be addressed.

Ms. O'Hare said the Law. Dept. informed her the IWWC can act to extend the application, but there should be a timeline given to the Permittee as to when the two violations have to be sufficiently addressed. Ms. O'Hare noted one case involves the removal of phragmites in an area approximately 40 ft. x 40 ft., and planting wetland plants. She said this can't be done in the summer, but should be completed by the fall. Ms. O'Hare said the second violation involved a series of nine piles of fill, which she said is not eroding and near the wetlands, which she said are not being impacted. Ms. O'Hare noted fill cannot be deposited within 20 ft. to 30 ft. of wetlands like these are without a permit. Ms. O'Hare said there is a third issue, which is not the Permittee's problem. She explained the landscaper from Putter Homes, the Tower Condominiums, created a dump pile in the middle of the swamp on Tower property, and goes through the Ahearn property to access this dump pile. She said she believes Mr. Ahearn blocked off this access, but noted there was much difficulty getting the Tower's Homeowners Association to clean up this property.

Ms. O'Hare said she should revisit this issue and believes Mr. Ahearn will give permission for access through his property for the clean-up. Atty. Molloy said she agreed and that the anticipation was that this project would go forward within the initial five-year period which has not occurred. She said Ms. O'Hare is correct the plantings were not done. She said the concern is that if the project goes forward, everything the Permittee is required to now do will be torn up again. She said she believes the area is stable and is a relatively small isolated wetlands area and didn't believe the conditions have changed over the years. Atty. Molloy asked if something will be done just for the sake of doing it, tearing it out and having to reinstall. Commissioner Kern asked if Mr. Ahearn wanted to do this project. Atty. Molloy said Mr. Ahearn wants to do this project and is actively pursuing this. She said all the pieces haven't come together. Commissioner Kern said he noticed the piles have stabilized with the weeds growing on top of the pile. Ms. O'Hare said the phragmites haven't expanded over time.

Commissioner Kern said if another five-year extension was granted, nothing would change in that area. He said it appears there is a dormant piece of property. He said Ms. O'Hare opened up the issue regarding the grass clippings. He asked if this has been cleaned up. Ms. O'Hare said this wasn't grass clippings but junk and it hasn't been removed but is not an active dumping site. Atty. Molloy noted that Mr. Ahearn blocked access noting that part of his property was an old paper street which is deeded to Mr. Ahearn.

Commissioner Kern said he believed it would be better to leave the area dormant until the project resumes. Atty. Molloy agreed, noting this is a small wetlands area and nothing is spreading and is isolated. She asked the IWWC not to require the Permittee to plant something that would have to eventually be torn up. Commissioner Kern said there wasn't that much virgin soil in the area and it has been disturbed. Atty. Molloy said a construction business was operated there.

Acting-Chair Parent entertained a motion for a request for an extension.

MS. PHILLIPS: MOTION THAT APPLICATION #A13-7.4/58 & 88 WOODHOUSE AVENUE – DONALD

**R. AHEARN – (36-UNIT APARTMENT COMPLEX, ONE FREE-STANDING UNIT
& CONSTRUCTION OF STORMWATER FACILITIES IN WOODHOUSE AVE.) –
REQUEST FOR EXTENSION BE GRANTED**

MR. SIMON: SECOND

**VOTE: MCKEEN – YES; KERN – YES, NOTING HE VOTED YES BECAUSE HE BELIEVED IT
WAS BETTER TO HAVE THE AREA STABLE THEN TO DISTURB THE AREA AND START
AGAIN; PHILLIPS- YES; SIMON – YES; PARENT – YES**

3. **#D18-6.1/15 Windswept Hill Road** – Paradise Hills Vineyard and Winery – Request for Determination of Exemption for Agriculture under Section 4.1a – (several site improvements)

Appearing in front of the IWWC was Atty. Daniel Mara representing Paradise Hills Vineyard and Winery and Richard Ruggiero, Owner.

Ms. O’Hare explained this request for determination came in on Monday. She noted this is also in front of the Planning & Zoning Commission. She said during the departmental review, she said it was clear to her this needed some wetland permitting of some variety. She noted that Atty. Mara believes this only needs one type of wetland action, which is a request for determination of exemption for agricultural and is requesting the IWWC declare this exempt for agricultural. Ms. O’Hare said there are several improvements Mr. Ruggiero wants to make to the vineyard and winery on which Mr. Ruggiero resides. Ms. O’Hare said she doesn’t send materials out in the IWWC packet until there is an application.

Ms. O’Hare said the IWWC has to consider whether or not Paradise Hills become subject to the surface area position because it appears Paradise Hills is over the surface area requirement which triggers a wetland permit which is 20,000 sq. ft. of semi-impervious or impervious area. She said Paradise Hills has not as of yet provided a figure. She said Atty. Mara believes Paradise Hills is exempt. Ms. O’Hare said she believes another type of permit required is for the storm water situation. Ms. O’Hare said there is an existing parking area that Paradise Hills wants to expand. She said there is a drainage issue with the existing parking area which is not controlled. Ms. O’Hare said over the winter, the water went into the woods and scoured out a route to the wetlands which needs to be addressed.

Acting-Chair Parent said he and the IWWC cannot absorb enough in a few minutes to be able to make a fair determination that is fair to the Applicant and to the IWWC. He said he would like to see this determination tabled to give the IWWC a chance to read all of this paperwork, including a large amount of information from Atty. Small. Ms. O’Hare said the IWWC should hear the Applicant’s presentation. Commissioner Kern asked Ms. O’Hare if she had prepared an Environmental Report. Acting-Chair Parent

said there were just Atty. Small's comments. Ms. O'Hare said essentially her Environmental Planner's Report is the same thing as the memorandum. She said she visited the site approximately one month ago. Commissioner Kern noted that Ms. O'Hare has had five weeks to make her report to the IWWC. He asked Ms. O'Hare if she was going to submit Atty. Small's letter as her Environmental Report. Ms. O'Hare said she wrote an environmental report to Atty. Small laying out all the issues. Commissioner Kern said he wanted to hear from Ms. O'Hare about this issue. Commissioner Kern said the IWWC could hear the presentation and perform a site walk.

Ms. O'Hare noted legally the IWWC can't approve an application on the first night. She noted a Request for Determination was submitted, not an application. She said a Request for Determination can be acted upon the first night it was presented. She said a site walk can be done. She said if the IWWC is comfortable with the presentation; the IWWC can act on this tonight or request that a wetland's application be submitted.

Atty. Mara said the first official communication was his May 9th letter to Ms. O'Hare which caused her to send her memo to Atty. Small who responded with her own memo. Atty. Mara noted that Paradise Hills is a farm and a farm winery; they grow grapes and sell wine products either by the glass or by the bottle. He noted that everything that occurs at Paradise Hills is incidental to and secondary to the growth of grapes, and the production and sale of wine. He said his client has gone through the zoning process to obtain a classification of zoning use called "farm winery". He said this farm winery use is what Atty. Small refers to in her letter. Atty. Mara said the zoning definitions and classifications are not informative to the IWWC because they are different standards, different words and regulations. He said Atty. Small referred to the zoning uses in response to the wetlands issue. Atty. Mara spoke about what the wetlands issues say and define farming. He said the wetlands regulations define farming which is way beyond someone with a plow, a field and a red barn. Atty. Mara said the wetlands regulations incorporate the State's definition of farming which is found in Section 1-1q of the General Statutes.

Atty. Mara said this Statute basically says a farmer can grow the product, process it and sell it all under the definition of farming and this is what Paradise Hill Winery does. He noted that everything done on the premise is a furtherance of this activity. He noted that Atty. Small refers to growing grapes and making and selling wine. Atty. Mara spoke about the site plan to zoning which shows changes to existing conditions, i.e., the installation of a patio; erecting and maintaining a seasonal tent, rearrange and increase parking and the building of an addition to the existing farm building to allow for more processing and storage space and a workshop for the storage and maintenance of farm equipment. Atty. Mara noted the question is whether these activities fall within the State definition of farming and he stated that he and his client suggest they do. Atty. Mara said the addition, the tent and the parking are incidental. He said the Statutory and the Town definition of farming includes direct sales of farming and the key is whether the sales fall within farming. Atty. Mara said the State Statute says direct sales of these commodities to the public is farming; parking is farming; having the area for sales is farming. Atty. Mara spoke about the building addition is directed to either maintenance of farm equipment and the production of wine which is farming under the State definition.

Atty. Mara spoke about parking, noting the plan shows 100 parking spaces, but noted it will probably be reduced to 87 parking spaces after going through zoning. He said there is already existing parking that is incorporated within the 87 parking spaces, noting some of these spaces will be eliminated and moved as indicated in the current plan. Atty. Mara said parking is farming because it is incidental to direct sales and direct sales are farming.

Acting-Chair Parent asked Atty. Mara to elaborate on events and promotions and asked what sections he was quoting. Atty. Mara said these were sections of the zoning regulations and how they allow ancillary uses, i.e, events and promotional events which is groups of people buying wine and music in the tasting room where the sales occur; live and recorded music which is in furtherance of sales. He said there is nothing done at the winery that is not aimed at sales of wine.

Acting-Chair Parent said what is being read to the IWWC are zoning regulations but noted this is Inland Wetlands. He said it may well be as far as zoning goes, Mr. Ruggiero is in compliance. He said we have wetlands here and as a Wetlands Commission, we must determine whether there will be an adverse impact on the wetland. He said there was a good PZC presentation, but wasn't sure if this was a convincing wetlands presentation. Atty. Mara said he agreed the zoning definitions don't have anything to do with wetlands but raised this issue because Atty. Small discussed them. He said he doesn't agree there is an adverse impact on the wetlands. He said we are here tonight to find out whether the activities and proposed uses are subject to your regulations and submitted under Section 4.1a which is the agricultural exemption of your regulations. Atty. Mara said Section 4.1a provides for farming as a matter of right.

Acting-Chair Parent pointed out this State definition doesn't seem to address musical events or uses that the Planning & Zoning definitions use. He said when these definitions are read, it seems to state one can have the farm store and a gathering place but was concerned that when there are public events that is fine with the PZC but didn't see whether this came in under wetlands. Atty. Mara spoke about uses allowed under the Statutes and Regulations. He said the difficulty is the method of direct sales; he said direct sales either by bottles, by the glass or the winery tasting room. Atty. Mara noted no winery in CT makes enough wine to get them into wine or liquor stores. Atty. Mara urged the IWWC to look at exempted uses and proposals and things that can be done on the property as a matter of right. He said his client has not yet made a wetlands application and maintains we don't have to because this is a farm. He said Paradise Hills is a farm that sells a product they grow and is direct sales and is not subject to wetland regulations.

Commissioner McKeen said the IWWC is here to protect the wetlands and the IWWC would like to work with you to protect the wetlands in the course of however this project goes forward. Atty. Mara emphasized there are no wetlands in this area, but in the adjoining property owned by Al Ruggiero which is used in concert with 15 Windswept Rd. as the winery. He said there is discussion of whether there is an intermittent stream across the driveway in the back. He said an engineer will take a look at this. He said the only two hooks for wetlands is possibly the intermittent stream and the drainage pattern in the back and the idea of surfaced area.

Commissioner Kern told Atty. Mara he just spent 15 minutes of his client's money informing the IWWC of zoning regulations. He said if Atty. Mara was so sure they were exempt, he wasn't sure why they were here tonight. He said he agreed with Commissioner McKeen that we are here to protect the wetlands. Commissioner Kern said in his opinion, Paradise Hills should have applied with a wetlands application and got the project passed because it is a farm usage and the IWWC always gives farmers some allowances. He said he doesn't hear about the winery and said the presentation given wasn't convincing to give an exemption. Commissioner Kern said he is still concerned about what is going on with the surrounding wetlands and suggested a site visit. He said he is not opposed to what Paradise Hills wants to do, but wants to ensure the surrounding property is not impacted by this operation. Commissioner Kern spoke about having a public hearing to discuss issues that are Planning & Zoning concerns. Atty. Mara noted that all the area being proposed for improvement has no wetlands. He said aesthetics will be changed, not the grade.

Ms. O'Hare pointed out that we don't regulate uses, that is Planning & Zoning; we (the IWWC), regulates activities.

Atty. Mara cited Section 4.1 of the Regulations noting the following operations and uses shall be permitted in inland wetlands and watercourses as a matter of right. Ms. O'Hare told Atty. Mara he just stated there were no wetlands or watercourses on the property. She explained that under these regulations, a farmer is free to grow an onion crop in a wet field but is not permitted to fill in the wet field to grow corn, if the corn crop doesn't like it as wet as the onion crop. She said the original intent of the Wetland Acts was to allow farmers to continue using property even if it was wet.

Commissioner Phillips said she was concerned about the current parking lot, noting it already has drainage issues. Atty. Mara said his client was concerned about this. He noted the uses and noted the activities fall within the exemption.

Commissioner Phillips said the Commission was handed a lot of information and would like to look further into this.

Acting-Chair Parent said the sense of the Commission is that a lot more information is needed and suggested tabling this matter. He suggested the Applicant consider doing a wetlands application. He suggested having Rosalind Page walk the IWWC through the drainage issue because the IWWC is looking for impacts.

Commissioner Kern suggested a site walk. Atty. Mara said his client will cooperate with the IWWC. Commissioner Kern said the farm exemption is a gray area.

TABLED TO THE JULY 18, IWWC MEETING

Commissioner Kern noted that because of the fragility of this project, he asked how concerns would be handled from abutting property owners. Ms. O'Hare noted this is not a public hearing, but a public meeting and usually Chair Vitali allows the public to speak. Commissioner Kern said he would like to

hear any public concerns tonight. Atty. Mara pointed out this meeting wasn't noticed as a public hearing and the Regulations state a public hearing cannot be held unless certain notices are met. He said to open a non-public hearing to public comment and call it a public meeting, changes it to a public hearing. Atty. Mara said he was worried about the Freedom of Information and whether it was properly noticed and done correctly. He said if this meeting was not properly noticed as a public hearing, no public comment should be entertained. He said he was more than happy to speak to anyone to find out what their complaints are. He said he will continue to be in contact with Ms. O'Hare.

Commissioner Kern asked Ms. O'Hare when this project could be deemed a Significant Activity so a public hearing could take place. Ms. O'Hare explained there are three ways the Commission could conduct a public hearing: if the project was deemed a Significant Activity; or if 25 or more people petitioned the IWWC to conduct a public hearing or the Chair can decide there is enough public interest to conduct a public hearing. Commissioner Kern said if this project is deemed farm exempt, this goes away but if it is not deemed farm exempt, then there can be a wetlands application and a public hearing and drag this out for several months or whatever it takes to get concerns addressed. Ms. O'Hare said this is correct and could be deemed a Significant Impact. Commissioner Kern noted there doesn't have to be wetlands on the property; it could be concerns downstream, upstream. Ms. O'Hare said there is a definition of Significant Impact so it has to be one of these criteria.

Acting-Chair Parent said if there is public comment, it could be on wetland issues only. Atty. Mara said if people want to speak tonight and it is alright with the Commission, he has no authority to stop people from speaking, but if people do speak, he has Freedom of Information concerns. Commissioner Kern said if there is someone in the audience with concerns, address it tonight to expedite the procedure instead of dragging out the project. He said he would want to know about peoples' concerns.

Atty. Mara said his client didn't object to having someone get up to speak, but was concerned about FOI rules.

Public Comment

Vivian Jones, 8 Windswept Hill Rd., told the IWWC that she was happy this project was being tabled. She said there was no notice and stated that if she hadn't contacted a Town Department on another matter, she wouldn't have known this was coming up tonight because there was no agenda anywhere. Ms. Jones said she is happy there will be a site visit and encouraged the IWWC to do a site visit collective or individually, on a peak day to see the impact on the environment. She spoke about the wetlands and the asphalt on the driveway which was supposed to be a pervious material. She said there is a tributary to the Muddy River which the driveway goes past. Ms. Jones noted Inland Wetlands told Paradise Hill to remove this driveway several years ago. She said she is concerned about the amount of traffic going by the tributary. Ms. Jones suggested that vehicles only be parked in the parking area and stated the buses and limos are now parking on the grass. She said she has a well, and runoff goes downhill towards her property and noted the change in the runoff because of the proposed patio with a fountain.

Clay Smith, spoke about agricultural exemptions and noted that manufacturing and processing of an agricultural product such as wine is not covered as farming. He said if this were the case, an off-site building that manufactured wine would also fall under the farming criteria.

Ms. Jones asked what Paradise Hills would be exempt from and wondered if it was from all the Inland Wetlands regulations. Atty. Mara said Paradise Hills is looking to be exempt for the uses that are defined as farming in the State Statutes and in the Town Regulations. He cited Section 4.1a of the Town Wetland Regulations and Section 1-1q of the State Statutes define farming. Ms. Jones noted that it seemed the activities have become the primary and farming secondary. She said she didn't understand how Paradise Hills was a farm.

Ms. O'Hare spoke about the asphalt on the driveway, noting that was the first time she heard about this. She said she saw a Planning & Zoning memo that under the Watershed part of the Zoning Regulations, pervious paving materials are required. She noted the Water Division is asking for pervious pavement which she said was interesting. Commissioner Kern said he would feel better going out to the site looking for slope and grade. He said he isn't opposed to the Paradise Hills proposal, but wants to protect the surrounding area on the site. He noted that many times engineers came in with costly plans and the IWWC had them modify the plans and it ended up better. Mr. Ruggiero pointed out the Zoning Regulations state that there has to be a dust-free surface as a driveway and the Fire Dept. states this has to be a surfaced roadway for emergency access. Mr. Ruggiero noted there was no asphalt pavement on the property except for the apron. He said the rest is reclaimed ground-up asphalt.

The Commission set Thursday, June 14, 2018 at 5:30 p.m. as the date and time for the site visit to take place at Paradise Hills Winery, 15 Windswept Hill Road.

RECEIPT OF NEW APPLICATIONS

1. **#A18-5.1/33 Maltby Lane** – (garage) – Request for administrative approval – approval granted 5/23/18

Ms. O'Hare said Chair Vitali has approved this administrative approval application.

2. **#A18-5.2/24 Oxford Trail** – Carl Perkins – (garage and deck) – Request for administrative approval – Ms. O'Hare indicated this was approved by Chair Vitali
3. **#A18-6.1/ 91 Farm Hill Rd.** – Sean Connolly – (addition) – Requests for administrative approval – Ms. O'Hare indicated this was approved by Chair Vitali
4. **#A18-6.2/5 Research Parkway** – 5 Research Parkway, Wallingford, LLC – Significant Impact activity – (industrial development) – received by Acting-Chair Parent.

Appearing in front of the IWWC was Atty. Dennis Ceneviva, Ceneviva Law Firm, representing 5 Research Parkway, Wallingford, LLC. Atty. Ceneviva said the application was filed Tuesday, June 5, 2018. He requested the IWWC accept the application and deem the proposed activity as Significant because there is a proposal to fill 2,465 sq. ft. of wetlands. He said the site has approximately 28.5 acres of wetlands

and the Applicant is proposing to fill 0.057% of wetlands. He said the fee has been submitted for the Public Hearing and to schedule the Hearing for July 18th. Ms. O’Hare said she checked with the Law Dept. who stated the Public Hearing date can be set tonight because the Applicant self-declared.

Acting – Chair Parent called for a motion.

MS. PHILLIPS: MOTION THAT #A18-6.2/5 RESEARCH PARKWAY – 5 RESEARCH PARKWAY, WALLINGFORD, LLC – SIGNIFICANT IMPACT ACTIVITY – (INDUSTRIAL DEVELOPMENT), BE DEEMED A SIGNIFICANT ACTIVITY

Ms. O’Hare said she believed this motion couldn’t be made because it was an action. She said the Law Dept. indicated since this was a significant impact, a public hearing date just needs to be set for the Significant Impact activity. Ms. O’Hare noted that Atty. Ceneviva isn’t allowed to make a presentation tonight; stating he was here to make sure the IWWC sets the public hearing date.

ACTING-CHAIR PARENT WITHDREW THE FIRST MOTION AND ENTERTAINED A MOTION TO SCHEDULE A PUBLIC HEARING FOR JULY 18, 2018.

MS. PHILLIPS: MOTION THAT APPLICATION #A18-6.2/5 RESEARCH PARKWAY – 5 RESEARCH PARKWAY, WALLINGFORD, LLC – HAVE A PUBLIC HEARING SCHEDULED FOR JULY 18TH AT 7:00 P.M. IN COUNCIL CHAMBERS.

MR. SIMON: SECOND

VOTE: PHILLIPS – YES; KERN – YES; MCKEEN – YES; SIMON – YES; PARENT – YES

ELECTION OF OFFICERS – TABLED.

REPORTS & COMMUNICATIONS – NONE

VIOLATIONS

1. Cease & Correct Order – 55 Kondracki Lane (Quinnipiac Valley Center) – 55 Kondracki Lane Property, LLC – (emergency driveway crossing work)

Ms. O’Hare said a Public Hearing was required and read the Regulations. She said this was an enforcement action, Cease & Correct Order and was an emergency. She said the property owners have agreed to the Cease & Correct Order. Commissioner Kern asked how this was an emergency. Ms. O’Hare noted the property owners were issued the Cease & Correct Order on Tuesday, June 5, 2018. She said in the Regulations under Section 14, the property owners must have a hearing within 10 days to discuss the matter. She said this was a hearing. Commissioner Kern asked if the public needed to know this hearing was being conducted tonight. Ms. O’Hare pointed out the notice was published Tuesday at 5 p.m.

THE HEARING COMMENCED AT 8:30 p.m.

Ms. O'Hare said 55 Kondracki Lane is the Quinnipiac Valley Center which is a skilled nursing and rehab facility. She noted this order was distributed to the IWWC in their packets. Ms. O'Hare said she was called out there a few weeks ago and noted there is a two-lane driveway but only one-lane is open because of failure in the construction because of the culverts under the roadway which has to be addressed now. Commissioner Kern asked about administrative approval. Ms. O'Hare noted that anytime this is a wetland or watercourse, administrative approval is not allowed. She said in this case, this is a river. Commissioner Kern asked about opening another bag of worms regarding State permits because it is a watercourse because of activity or encroachment. He said there has to be common sense, and asked if it would have made sense to have a Special Meeting, or a phone vote to expedite this as soon as possible. Ms. O'Hare said this came together quickly and the Applicant just decided what the fix would be over the last few days. She said there will be a slip line installed in the culvert.

Ms. O'Hare said she also found a few other violations when she visited the site recently. She said there was a wash-out of the previous driveway repair which deposited a lot of stone in the stream channel which will be cleaned up under this Cease & Correct.

Appearing in front of the IWWC was Michael Ott, Professional Engineer and Licensed Land Surveyor with Summerhill Civil Engineers, Madison, CT.; Jeff Turner, Executive Director of Quinnipiac Valley Center; Clay Smith, Quinnipiac Valley Center and Rosalind Page, Winterbourne Land Services.

Mr. Ott said he requested the Cease & Correct Order and pointed out this is the only way for an Inland Wetland Commission to issue a Cease & Correct Order.

Mr. Ott said Ms. O'Hare came to the site at his request. Mr. Ott said Ms. O'Hare noticed past activities that needed a regulated activity permit. Mr. Ott said these issues will be addressed but the primary matter is the driveway to the facility which is the only access way. He said this driveway crosses a watercourse and there are twin 60-inch diameter structural plate metal culverts beneath the driveway which are in poor condition and have started to cause sinkholes in the driveway. Mr. Ott said the sanitary sewer, water and gas utilities for the facility located above these culverts in the driveway. Mr. Ott said the issues Ms. O'Hare noticed were done in the past and needed permits but will be corrected. He said the primary work is the fix the culverts

Acting-Chair Parent asked Mr. Ott to explain how the culverts will be fixed.

Mr. Ott explained culverts consist of structural plates, five feet in diameter that are made of four pieces of metal which form a circle and are bolted together. He said these were installed in the early 70's and are severely corroded on the bottom of the culvert. He said around 18 inches up from the bottom there is a bolt line where the bottom plates are bolted to the side plates. He said the corrosion goes through the bolt lines which have caused the culvert to shift. Mr. Ott said one structural plate section has gone down seven to eight inches. Mr. Ott said there are several ways to rehabilitate, one being the closing of the driveway, excavate the 10 ½ ft. of cover and replace the culverts. He said because this is the only access to the facility, a temporary bridge crossing would have to be constructed.

Mr. Ott said Ms. Page's firm has done survey work and believe these culverts can be rehabilitated by installing a slip line, i.e, installing a smaller diameter pipe into the larger pipes and to grout the space between the existing pipe and the new liner pipe. Mr. Ott said the easiest way to access these culverts is through the up-stream side. He said the Contractor will have to go down the bank with the excavator and create a level platform down near the water course channel on one side near Kondracki Lane, and insert these pipes from the upstream side into the culverts which are 50 ft. long. He said the down stream end will be blocked and the grout will be pumped in. Mr. Ott said the bank will be restored and revegetated. Mr. Ott spoke about an 18 inch high debris dam at the inlets to the culverts. Mr. Ott said he probed this with a soil probe, and believes there is debris. He said he walked upstream with the probe about 30 to 40 ft. upstream, noting the sediment depth goes down to nothing and there is a gravel watercourse bottom. Mr. Ott said the debris dam, which is part of Ms. O'Hare's order, need to be removed or the liner pipes cannot be installed. He said the Contractor will first have to remove the debris dam and the sediment which will be deposited in a truck and removed off-site. Mr. Ott said the bottom of the culverts are so corroded they have holes. He said the Contractor will have to do repairs on the length of the culvert, or the grout will go out of the holes.

Mr. Simon asked about the five foot pipe and what size diameter the Contractor would go down to. Mr. Ott explained that one of the culverts was in better shape and it appears a 50 inch outside diameter can be installed. He said the second culvert is in worse shape with the eight inch joint deflection and will probably only get a 36 inch outside diameter. Mr. Smith asked about the impact to the water flow. Mr. Ott said the drainage to the culver is approximately 0.85 sq. miles. He said he looked at the drainage area and developed peak discharges at the culverts to see if the decrease in the diameter of the two pipes can handle the flows. He said because of the steep banks and the fact there is 15 ft. from the streambed to the driveway, there is a lot of allowable headwater. He said the water surface can build up without it affecting the site or neighboring properties upstream. He said he doesn't see a problem going from a 5 ft. to a 3 ft. diameter pipe. He said the grout will be a cement product which hardens and has strength.

Commissioner Kern asked about an S&E control plan. Mr. Ott explained this plan will be submitted to Ms. O'Hare. Commissioner Kern asked about the silt upstream. Mr. Ott said there is silt upstream because of the debris dam and it will be removed and taken off site. Commissioner Kern asked if a long-reach excavator will be used. Mr. Ott explained that some trees were cut on the bank the excavator will have to access. He said the Contractor will have to remove three small existing trees so he will be able to swing the pipes over the watercourse. He said he has done this before. He said the Contractor won't push against the pipe and will build skids to push the pipes into place. Commissioner Kern asked if the S&E controls will be overseen. Ms. O'Hare said the applicant has been asked to install silt fencing within two weeks of tonight and work will begin as soon as the materials arrive. Ms. O'Hare said the first thing to be done next week is to submit a plan which she said she will review with the Town Engineer. Ms. O'Hare said the next thing to be done is to install the erosion controls that are drawn on the plans that will be coming in a week.

Ms. O'Hare said she is requesting a turbidity curtain at the end so the other property is not impacted or the stream. Commissioner Kern said he is concerned about water quality. He said the Army Corps of Engineers don't have to be involved, the IWWC can approve this tonight and the IWWC has jurisdiction because this is a critical care facility. Ms. O'Hare said we operate independently from the Army Corps and noted the trigger point is 200 linear feet. Mr. Ott said his understanding is that there is no CT DEEP permit required and this project is eligible for self-verification. Ms. O'Hare asked the IWWC to confirm her Cease & Correct order and that it remains in effect until the work is done.

MS. PHILLIPS: MOTION THAT THE CEASE & CORRECT ORDER OF JUNE 5, 2018 BE AFFIRMED AT 55 KONDRACKI LANE, QUINNIPIAC VALLEY CENTER

MR. SIMON: SECOND

VOTE: MCKEEN – YES; KERN – YES; PHILLIPS – YES; SIMON – YES; PARENT – YES

MS. PHILLIPS: MOTION THAT CEASE & CORRECT ORDER AT 55 KONDRACKI LANE, QUINNIPIAC VALLEY CENTER REMAIN IN EFFECT UNTIL THE WORK IS DONE

MR. SIMON: SECOND

VOTE: MCKEEN – YES; KERN – YES; PHILLIPS – YES; SIMON – YES; PARENT - YES

Mr. Ott spoke about removal of the debris dam. He said the Contractor will restore the bank and replant it. He said the S&E controls will remain in place until the bank is stabilized. He spoke about the headwalls. He noted the woody vegetation; some of it three inches in diameter that has grown above the headwalls will be cut and removed carefully without disrupting the headwalls. Mr. Ott said it will take a few weeks to get the materials and the lining of the culverts will take less than one weeks work. Mr. Ott said the major activity on the project will be done in a week or so. He said this project could go on into August. Ms. O'Hare said she confirmed with the Fire Marshal and they are alright with this, the aisle is open and fine at 12 ½ ft.

ACTING-CHAIR PARENT CLOSED THE PUBLIC HEARING AT 9:16 p.m.

ADJOURNMENT

Commissioner Phillips made a motion to adjourn the Meeting at 9:16 p.m. Commissioner Simon seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary