

INLAND WETLANDS AND WATERCOURSES COMMISSION

TOWN OF WALLINGFORD

REGULAR MEETING

WEDNESDAY, SEPTEMBER 2, 2015

MINUTES

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, September 2, 2015 in Council Chambers, Town Hall, 45 South Main Street, Wallingford, Connecticut.

Seated Commissioners were: Jim Vitali, Chairman; Nick Kern, Secretary; Commissioners David Parent, (arrived at 7:25 p.m.); Deborah Phillips; Michael Caruso, Alternate; Jim Heilman, Alternate; Erin O'Hare, Environmental and Natural Resources Planner.

Absent: Commissioner Dennis Murphy.

Chairman Vitali called the Meeting to order at 7:16 p.m.

Voting members were: Commissioners Vitali, Kern, Parent, Phillips, Heilman.

CONSIDERATION OF MINUTES

1. Regular Meeting, July 1, 2015

Chairman Vitali entertained a motion at this time.

**MR. KERN: MOTION TO APPROVE THE REGULAR MEETING MINUTES OF
JULY 1, 2015 AS SUBMITTED**

MS. PHILLIPS: SECOND

**VOTE: HEILMAN-ABSTAIN; KERN-YES; PHILLIPS-YES; CARUSO-ABSTAIN;
VITALI-YES**

OLD BUSINESS

1. **#A15-6.4/893 (formerly 891) North Colony Road – Acquisition Holdings, LLC**
– (commercial development)

Appearing in front of the Commission was Atty. Ariana Ceneviva, Ceneviva Law Firm, and William T. Fries, President, Center Design, LLC., representing the Applicant, Acquisition Holdings, LLC.

Atty. Ceneviva said 893 North Colony Road is 1.86 acres in land area and was previously approved for a wetlands permit in June 2010. She said no building has been constructed since that time and the lot remains vacant. Atty. Ceneviva noted the lot had been a car dealership in the past. She said the proposal is to develop the site with a 10,730 sq. ft. building to include parking and stormwater facilities and noted the total impervious area is 64,000 sq. ft. thus the Wetlands Commission has jurisdiction.

Mr. Fries went over the stormwater management plan. He noted the CVS is to the south of the property and back in June 2010 was split up into three properties which included the CVS to the corner, the Scrub & Bubbles Car Wash to the north and the Applicant's parcel in the middle, which has the Amtrak railroad tracks to the rear, and Rt. 5 off to the front. He said the building had to be reconfigured slightly in order to come up with different tenants and to be able to provide a Drive-Thru on the corner. Mr. Fries said the drainage has been designed to meet pre-and-post development and all storm events. He said the clean water will be taken from the building, and deposited into an oversized perforated underground pipe to allow for infiltration into the soils with an overflow coming out to Rt. 5 into the State system, similar to where the site currently drains. He said some of the site drains to the back of the site towards the railroad track. Mr. Fries said the front and the parking areas will all be caught into catch basins with hooded sumps and brought to oil separators and eventually discharged into a vegetated water quality swale in the front. He said this is designed to reduce runoff from the site during storm events. Mr. Fries said an operations and maintenance plan will be incorporated into this design.

Mr. Fries said all utilities are accessed from Rt. 5 and sanitary will be tied into existing manholes and the two restaurants will have grease traps to meet the public health codes.

Mr. Heilman asked about the parking lot draining into the filtering separator and discharging into the swale in the front.

Mr. Fries confirmed the water quality swales are located in the front and from that location there is another overflow which will dump into the Rt. 5 area.

Mr. Heilman said very little should enter into the stream, except for a significant rapid rainstorm.

Mr. Fries said the soil is very sandy and noted several geotech studies were performed.

Mr. Heilman said he liked the procedure.

Mr. Kern asked if the grease traps were internal or external.

Mr. Fries said the grease traps for sanitary will be external and will be located out on the parking lot. He said depending upon usage, they would be pumped once a month.

Mr. Kern asked about the snow shelf.

Mr. Fries said there are about 0.4 acres of landscaped area and utilizing the areas in the corners with no landscaping and a few areas up against the building which is approximately 3,000 sq. ft. of storage. He noted that during major storms, the snow will be pushed into a corner of the employee only spots and after the storm; a company will come in and remove the snow.

Chairman Vitali asked about the calculations of the roof drain system going into the perforated pipe and asked if this could handle a 25 or 50 year storm.

Mr. Fries said he calculated out for both the basin in the front and the underground roof, to be able to handle a 100-year storm because it was treated as a detention basin. He said he also didn't take into consideration, any infiltration when he ran the calculations to be conservative.

Ms. O'Hare said this was a straight forward development and referenced her Environmental Planner's Report of August 27, 2015. She recommended approval with one condition that she inspect the erosion controls prior to construction and noted she expected a few slight revisions when this is presented to Planning & Zoning and asked the Applicant to get the revisions to her as soon as possible.

Chairman Vitali asked Ms. O'Hare about her statement in the Environmental Planner's Report which referenced a 50-year storm design. Ms. O'Hare said this was for the front basin. Mr. Fries said both basins can handle a 100-year storm and the pipe systems are 25.

Chairman Vitali said he had a problem with the statement, "some flow can come out of there". He said he believed that when the rain and the roof drains began running, there would be some water out on the highway.

Mr. Fries said for the smaller storms, this will infiltrate in, but for the larger storms pre-and-post flows will be matched. He referenced a chart in the Commissioners' packets which showed what was leaving the site today.

Chairman Vitali asked why this isn't improved by having nothing going into the runoff for the pipe.

Mr. Fries said this was the way the system was designed, but said he could tweak this down a bit.

Mr. Kern said with a bit of tweaking, there can be less water going out into the State storm sewer.

Mr. Fries said he currently, if he looks at the two-year storm, for the existing condition, there are 4.35 cfs leaving the front of the building which he is reducing down to 2.6.

Mr. Kern said there was one storm this year where the water was puddled onto the State highway at CVC. He said either the catch basin was clogged or it was maxed out, this is why as much water as possible should be kept on-site.

Mr. Parent suggested a second condition of approval be to modify the plan to further increase the volume of recharge from the roof drainage system.

Mr. Fries said he didn't take into account any discharge into the soils, but will look into putting in a conservative number for sandy soils, with the possibility of making the pipe larger.

In answer to Chairman Vitali's question, Mr. Fries said the State had not yet approved his plan of discharge into their system.

Mr. Kern said he found it quite illuminating that engineering's best practices would naturally look for no impact, meaning that one enters a site in the environment and when one is concerned with the water, one doesn't want to add anything more or take anything away in both directions, so one looks for a zero. He said we have an opportunity to do something that could make a difference, and in this case, it is a reduction. He said in certain cases, one would not want to reduce runoff because the wetland may dry up downstream; and in other cases, one would not want to add runoff to the area.

Chairman Vitali said this is an industrial area and there isn't much recharge.

Chairman Vitali entertained a motion on significant activity.

MR. PARENT: **MOTION THAT APPLICATION #A15-6.4/893 (FORMERLY 891)**
NORTH COLONY ROAD – ACQUISITION HOLDINGS, LLC –
COMMERCIAL DEVELOPMENT, BE DEEMED NOT A SIGNIFICANT
IMPACT

MS. PHILLIPS: **SECOND**

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

Chairman Vitali entertained a motion to approve or deny the application.

MR. PARENT: **MOTION THAT APPLICATION #A15-6.4/893 (FORMERLY 891)**
NORTH COLONY ROAD – ACQUISITION HOLDINGS, LLC -
(COMMERCIAL DEVELOPMENT), SUBJECT TO THE FOLLOWING
CONDITIONS:

- 1. EROSION CONTROL MEASURES ARE IN PLACE AND MEET THE APPROVAL OF THE ENVIRONMENTAL PLANNER PRIOR TO ANY FURTHER ON-SITE WORK**
- 2. THE APPLICANT MODIFY THE PLAN TO FURTHER INCREASE THE VOLUME OF RECHARGE FROM THE ROOF DRAINS**

MS. PHILLIPS: SECOND

Mr. Kern suggested that something be put in writing to the tenant so the natural recharge area in the front is not used as a snowpile storage area. He asked that a covenant be put in the lease document addressing this issue.

Mr. Fries said he prepared a color exhibit showing where the snow would be put and will provide a sign.

VOTE: HEILMAN-YES; KERN-YES; PARENT-YES; PHILLIPS-YES; VITALI-YES

NEW BUSINESS

- #A15-8.1/135 Fawn Drive – Stratton Properties, LLC (Request for bond release)**

Ms. O'Hare said the bond is ready to be released.

Chairman Vitali entertained a motion to release the bond.

MR. PARENT: MOTION THAT THE BOND RELEASE FOR APPLICATION #A15-8.1/ 13FAWN DRIVE – STRATTON PROPERTIES, LLC., BE GRANTED

MS. PHILLIPS: SECOND

Mr. Kern asked Ms. O'Hare if she was certain everything was completed on this project.

Ms. O'Hare said she visited the site a few days ago, and noted this was an erosion control bond and everything was in order.

Mr. Kern said the neighbors to the right of the property had been concerned about stormwater runoff previously.

VOTE: HEILMAN-YES; KERN-YES; PARENT-YES; PHILLIPS – YES
VITALI-YES

Chairman Vitali took the agenda in the following order:

VIOLATIONS

1. **293 Pond Hill Road** – Notice of Violation – Robert Pocobello – (unpermitted, unauthorized alteration to stream & installation of yard improvements)

Appearing in front of the Commission was Robert & Joy Pocobello.

Ms. O'Hare said she received an anonymous complaint that there had been a lot of work on the property. She said she went out to the site two times but both times, found no one at home. She said the Notice of Violation went out and was put into the Commissioners' packet along with three pages of photographs.

Ms. O'Hare explained the property slopes from the back to the front and the property has been improved by installing a lawn. She said the woodland stream was channelized and piped over the years, which she believes was a phased project. She said there is a concrete chute at the end and a plunge pool where it meets Pond Hill Road. Ms. O'Hare said in the middle of the property, elaborate stone work, a Japanese bridge, a Koi pond, a screened-in out building, and waterfalls has also been installed. She said when it rains, the water goes from the forested area to the stream which has been channelized and filled with rock and then enters an 18-inch culvert. She said there is also a series of yard drains and a recirculating pump for the Koi fish. Ms. O'Hare said the water eventually enters the Town's culvert under Pond Hill Road. She noted that a part of the Pocobello's cobblestone driveway is in the Town's jurisdictional area which would be 50 ft. back from where the stream used to be.

Mr. Heilman asked how much of this is in a wetland area.

Ms. O'Hare said there are no wetlands left on their property and noted she wasn't sure if there were ever any wetlands on the property. She said there used to be a stream which came down across their property.

Mr. Kern asked if the stream was intermittent only when there is a high water table or continuous rains and does water come through their yard.

Ms. O'Hare said she wanted to hear from the property owners because an 18-inch culvert was installed to handle this stream. She said she imagines in a storm it becomes a fast moving stream but because of the lack of rain, the stream is a trickle. She said the stream has been entirely altered and all of the activity is within the upland review area.

Mr. Kern asked if the property owner got carried away with the maintenance but noted it was creative what the property owner constructed.

Mr. Heilman said the issue was the stream course, intermittent but a stream course, and the regulations state this is an area that the IWWC should conduct a review of any activity which occurs along these streambanks. He said depending upon the conditions, the IWWC may or may not allow any activity in an URA let alone this level of activity. He said this must be looked at to get a grasp of the magnitude, not that there is any harm being done except the IWWC

can't allow this to set a precedent. Mr. Heilman said the property owner did a beautiful job, but the work was illegal without a permit.

Mr. Pocobello said he spoke with Ms. O'Hare on the phone and asked if the IWWC could come out to the property to explain what they did and how it functions. He said they bought the property in 2002, and noted that what Ms. O'Hare is calling a stream, they called a ravine and is always dry. He said the only time water ever flowed through the ravine, was when there was heavy rains and in the snow meltoff during March and April, then dry it up.

He said what Ms. O'Hare sees as a trickle is groundwater because he believed there is an underground stream in this area. He said he likes his property neat and had trouble maintaining it because the ravine was lined with rocks on the bottom. He said the weeds would grow in the ravine and found it hazardous trying to mow up to the ravine and was difficult to maintain. He said he piped the water down to the street and this was done around 2003-2004, and stressed the water flows in a straight line down to the street. He said this was the original path, and the direction has not been changed.

Chairman Vitali said no one is disagreeing how nice everything looks, but said that sometime the nice looks isn't what the natural environment would like.

Mr. Pocobello said when he purchased the property, he was told by his Attorney that the Town has a sanitary sewer easement but was never told there was wetlands. He said they wouldn't do anything to harm the environment and had no intention of doing anything wrong.

Chairman Vitali suggested a site visit.

The Commission scheduled the site visit for Saturday, Sept. 12 at 9 a.m. Ms. O'Hare will send a letter to the property owners for this Special Meeting of the IWWC. Chairman Vitali also asked Ms. O'Hare to give the property owners an application for a permit.

RECEIPT OF NEW APPLICATIONS

1. **179 Maltby Lane** – Thomas Strilmaier – (garage) – received by Chairman Vitali.

Ms. O'Hare said she received this application on Tuesday and has not yet visited the site. She said this might be an administrative approval depending upon what she finds on the site visit.

2. **24 Terrell Farms Way** – Michael and Rebecca Donegan – (pool patio, fire pit, hot tub) – administrative approval request – received by Chairman Vitali.

Ms. O'Hare said the Applicants have requested an administrative approval but noted the Law Dept. requests this item be added to the agenda. She said the Commission received 12 copies for tonight's meeting. Ms. O'Hare will review this application and report back to Chairman Vitali.

Chairman Vitali said he and Ms. O'Hare have been corresponding with each other throughout the month, on issues the Commission should be aware of. He said they decided not to make any decision without first consulting with the IWWC.

REPORTS & COMMUNICATIONS

1. Letter to IWWC from Lynn Cooke Andrews and Jeffrey Andrews re: Lynn Cooke Andrews and Jeffrey Andrews, received 7/29/15.

Chairman Vitali said this is in regard to a violation. He said the Town Attorney said it should be acknowledged the letter has been received and because this is in court, it should not be discussed in this forum.

Mr. Heilman noted that every application is on its own merits.

Chairman Vitali said the pond was dug because it was stated it was a necessity for the farming operation. He said he didn't believe one gallon of water has been pumped out of the pond to irrigate anything.

2. DISCUSSION: Environmental Planner's Comments submitted to the U.S. Army Corps of Engineers on 8/13/15 in response to Public Notice re: Permit Application: Wallingford Group, LLC – Padens Brook at 59 & 65 North Plains Highway; received 7/17/15

Chairman Vitali said Ms. O'Hare has a 12-page report going back to the Army Corps of Engineers regarding issues she has with this site, and wanted to know if the Commission had any comments or if anything needed to be added before it was sent out.

Mr. Heilman said he read the report and said it was thorough and accurate and nothing more needed to be added.

Chairman Vitali said the energy the Army Corps of Engineers is putting into this application compared to no energy put on the Andrews violation didn't seem to be fair.

Ms. O'Hare said she doesn't know how long it will take the Army Corps of Engineers to make their decision, but should they approve the application, Wallingford Group, LLC will have to appear in front of the IWWC and file a revision to permit for all the new things and changes to the old things the IWWC has already permitted. She said Wallingford Group, LCC received a "Notice of Violation from the Army Corps of Engineers, and a "Cease & Desist" approval from the IWWC which will need to be revised now. She said the Army Corps of Engineers just has jurisdiction over the corridor of the river, but they can use the URA.

Chairman Vitali said he understood the operation has been shut down until this entire project is approved. He said at least this Applicant has honored the Cease & Desist order when most of the time, this is ignored.

Mr. Kern asked what has changed to warrant an 11- page report on her behalf. He noted that when this issue was left a year ago, the Army Corps of Engineers was going to make their decision and the IWWC was going to take it from there.

Ms. O'Hare said this is a confusing issue. She said the IWWC was all set with the Applicant, but then they received a "Notice of Violation" from the Army Corps of Engineers. She said to make amends to the Corps, to get rid of the violation, the Applicant was told to apply to the Corps, which they did. She said the Applicant not only applied for an "after-the-fact" application, they threw in some mitigation, i.e., the fish habitat and mitigation for the stream. Ms. O'Hare said the Corps will consider the Town's comments and noted the Water & Sewer Division, Planning & Zoning and Engineering Dept. also had comments which the Corps will consider in whether they should grant an "after-the-fact" permit to the Wallingford Group, LLC.

Ms. O'Hare said the IWWC said the Wallingford Group, LLC could line Padens Brook with stone down by North Plains Highway, but the Army Corps of Engineers doesn't want the stone. She said the IWWC approved certain work that the Corps is pulling back on.

3. Regulation revisions –status – no new updates.
4. DISCUSSION: 13 Oxford Trail – re: permit policy for reclamation activity on edge of Spring Lake

Chairman Vitali said this could be a violation or a maintenance issue. He said this is on the banks of Spring Lake which is losing its character as a lake; it is silting in and drying up and the dam is down. He said some of the silt is encroaching and there is a ring of cattails growing around the edge of the lake. He said the cattails when they grow; they create a soil-like condition underneath them, which is changing the shoreline. He noted that a person is cutting the cattails, and neighbors have indicated there is activity in the wetlands on the banks of Spring Lake. Chairman Vitali wondered if this so-called activity was a violation or a maintenance issue to help maintain the integrity of the lake.

Mr. Heilman said it is important to recognize the origins of the lake. He said to a large extent, the lake was built around recreation and evolved into this for many years. He said what is being seen now has to do with construction upstream and now there is natural succession of what was a lake, into a meadow, and this begins with cattails moving in and building up the soils until there is an open meadow. He said if the lake is going to be allowed to maintain its historic characteristics, it doesn't need to revert to a meadow. He said it is important to allow this area to be maintained and to allow it to be the condition that it was historically built around. He said he didn't think the cutting of the cattails was harmful to the lake, otherwise it will transition to a meadow.

Mr. Kern said this should fall into the maintenance program.

Chairman Vitali said the IWWC is not just deciding about 13 Oxford Trail, but other people.

Mr. Parent said if nothing is done, there will be a meadow, not a lake. He said if the person wants to cut the cattails and maintain his property as a lakeside property, he should be allowed to do so. He said it is unfortunate the people can't get together as an association and keep this area as a lake.

Chairman Vitali said he wondered what type of permit would be needed to rebuild the dam. He said if this cutting of the cattails and removal of the cattail root mat is going to be allowed as a maintenance item, then the homeowner has to notify the Wetlands office that the cattails will be cut. He asked how this message can be relayed to the people.

Mr. Heilman suggesting posting a sign stating this is a permitted activity by the IWWC.

Ms. O'Hare suggested contacting the media to do an article on this issue. Ms. O'Hare said she can see other neighbors wanting to dig out other plants by the lake and how would there be a handle put on this.

Mr. Kern said the Environmental Planner will have to use discretion and make these decisions.

Ms. O'Hare said she could write a letter to the people who reside around the lake.

5. DEEP –Notice of Tentative Decision – Intent to Modify a National Pollutant Discharge Elimination System (NPDES) Permit-Allnex USA, Inc., 528 South Cherry Street - discharge to Quinnipiac River relative to wastewater from new phenolics-based resin operation; received 8/3/15

Ms. O'Hare said anyone on the IWWC is welcome to make a comment.

6. **#A13-10.2/Town of Wallingford** – Quinnipiac River Linear Trail – Phase III project – issues

Chairman Vitali said the IWWC was not notified there was a large amount of gravel being hauled off-site and the trail has been changed and located it closer to the river.

Ms. O'Hare said the actual trail alignment has not yet changed, but in the memo from the Rob Baltramaitis, Town Engineer, that was included in the Commission's packets, Ms. O'Hare said Mr. Baltramaitis will be applying to the IWWC to re-align the trail. She pointed out the access road to the trail has been re-aligned.

Chairman Vitali said the amount of work to get the bridge across the river was extensive. He said this is a frustrating situation and if it wasn't a Town job, there would have been a large bond required. He also spoke about the topographic map being wrong and said this is what the IWWC has to deal with nowadays, a contractor doing a simple job who has no regard for anything relating to this.

Mr. Parent said if people would do the agreed job with the permit, there wouldn't be this problem.

Chairman Vitali spoke about gravel leaving the site. He said the application before the Planning & Zoning Commission wasn't for a mining permit for gravel.

Ms. O'Hare said she would like feedback from the Commission regarding how the Contractor over cleared the vegetation in an area approximately 75 ft. x 50 ft. She said it is growing back and noted mature trees were not cleared just saplings and vines. She said she was told it was a GPS error. Ms. O'Hare said the Town hired Milone & MacBroom to oversee the project and oversee any problems. She said Milone & MacBroom suggested letting the cleared area grow back. She said she originally wanted the Contractor to plant shrubs and saplings until she visited the site and noted this was the site of the former fireworks factory and when it was dismantled, it left a disturbed area which attracted invasive species. Ms. O'Hare said if 50 new plants are put in there, they will be smothered by vines. She said the area is not eroding because it is flat.

Chairman Vitali noted within two to three years, the area will be underwater. He said the Quinnipiac River should be re-routed out of the raceway and the water should be directed to go back into the river side of the island.

Mr. Kern said the river is now the raceway and a minimum amount of water goes to the river which was rerouted down the raceway for aesthetic reasons when condominiums were constructed on Main St. in Yalesville. He said now the raceway is the river and the river is the raceway.

Chairman Vitali said this is a sad state of affairs and noted the project was not as well thought out as it should have been.

7. CACIWC – newsletter, "Habitat", Summer 2015 – received by Commission

Mr. Heilman spoke about an article in the newsletter regarding making a motion and giving an approval or denial and why this is done.

Chairman Vitali said years ago during a training session in Haddam, two attorneys from the Attorneys General's office stated the Commission should not give a reason for a "no" decision.

8. CACIWC – membership dues

Ms. O'Hare asked the Commission to approve the dues which are \$55 a year.

Chairman Vitali said there is money for this in the budget and approved the membership dues.

9. PZC Public Workshop on Plan of Conservation and Development – Lyman Hall High School Cafeteria, 70 Pond Hill Rd., Monday, Sept. 21, 2015, 7:00 p.m.

Ms. O'Hare said this is for the public and for any Commission to give their opinion on the proposed plan.

VIOLATIONS

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

Chairman Vitali said Ms. O'Hare has dealt with this person several times and he refuses to come before the IWWC because he believes he did not commit a violation. He said he received a letter from Mr. Woronick's attorney which states his client has done extensive building in Wallingford over the years and has a reputation among the Commission and is a responsible builder in Wallingford. Mr. Vitali said Mr. Woronick refuses to plant shrubbery and replace parts. He said this is frustrating and noted the Law Dept. is too busy to take this person to task.

Ms. O'Hare suggested an after-the-fact permit.

Chairman Vitali said Mr. Woronick believes a permit is not needed.

Mr. Kern said Mr. Woronick said he had nothing to do with this violation. Mr. Kern said there is a fine line between being reputable and non-reputable.

Chairman Vitali suggested he and Ms. O'Hare discuss this further and said a response to the Attorney's letter is warranted. He said this is part of being a wetlands commissioner and Wallingford is not alone in this frustration.

ADJOURNMENT

Mr. Parent made a motion to adjourn the meeting at 8:40 p.m. Ms. Phillips seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary