

**Wallingford Inland Wetlands & Watercourses Commission**  
**Wednesday, October 2, 2019, 7:00 p.m.**  
**Robert F. Parisi Council Chambers, 2<sup>nd</sup> Floor, Town Hall**  
**45 South Main Street, Wallingford, CT**

**MINUTES**

**PRESENT:** Chair James Vitali; Vice-Chair David Parent; Secretary Nick Kern; Commissioner Deborah Phillips; Aili McKeen, Alternate; Erin O’Hare, Environmental Planner.

**NOT PRESENT:** Commissioner Michael Caruso and Alternates Robert Simon and Daryll Porto.

Chair Vitali called this Regular Meeting of October 2, 2019, to order at 7:04 p.m. and the Pledge of Allegiance was recited. One person was in the audience.

**CONSIDERATION OF MINUTES**

1. Regular Meeting, July 17, 2019, 7:00 p.m.

**MR. PARENT: MOTION THAT THE MINUTES OF THE REGULAR MEETING OF JULY 17th, 2019, BE APPROVED.**

**MS. PHILLIPS: SECOND**

**VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES**

**OLD BUSINESS**

1. **#A19-8.1 / 110 North Plains Industrial Road** – Miguel Galarraga - (drainage and parking area improvements) – Granted administrative approval 9/4/19

Chair Vitali said that he and Ms. O’Hare had gone over this application. They decided that it could receive Administrative Approval, which was granted on 9/4/19.

**NEW BUSINESS** - None.

**RECEIPT OF NEW APPLICATIONS**

1. **#A19-9.1 / 10 Pogmore Drive** – Aquatic Pool & Spa (in-ground pool & fencing) – Request for administrative approval

Ms. O’Hare said the property at 10 Pogmore proposes an in-ground pool with a small surround and fencing. All activity would take place, at minimum, 30 feet and mostly 40 or 50 feet from the wetland. They had to apply because they are within the 50-foot upland review area. Ms. O’Hare went out there today. It’s level, and she sees no reason not to have an administrative approval.

Commissioner Kern asked where the water spoils are going to be dumped when they backflush/clean the pool? Is there a cycle for the spoils pumped from the pool on discharge, and are they going into the wetlands?

Ms. O'Hare said no. She had recently read the DEEP regulations. This pool will be handled like all others. They don't have to get a permit from the DEEP. It is only an issue when a pool is drained completely dry. Today, pools are kept full over the winter; all pools have circulation.

Chairman Vitali said if you're backflushing to filter it, the water has plenty of chemicals to swim in. If they pump it out, it's probably going to drain toward the wetland.

Ms. O'Hare will find out for the next meeting if the drainage is allowed to go into the lawn or into the stormwater system in the road.

Chairman Vitali asked if the Commission sees any reason not to grant administrative approval for this person? Hearing no objection from the Commissioners, Chair Vitali granted Administrative Approval.

**2. #A19-9.2 / 12 Old Colony Road** – Old North Colony Properties, LLC – (installation of drainage swale and berm)

Ms. O'Hare said this is owned by Old North Colony Properties. She reported this property is also listed below on the agenda under violations since June. They have been working to correct violations. Commissioner Kern was out there twice with me. They cleaned all the material away and fortified the slope where the drainage had gone over; they're ready to plant grass seed. They had intended to have the drainage go overland gradually, 400 feet down the slope, but that's not advised—it would cause erosion. Commissioner Kern and I said, let's drain it into the existing big basin. That's in our jurisdiction. So they needed an application in order to get that stormwater from the western side of the stockpile area to the basin via a 15-foot-wide swale along the western edge to existing basin. It's on the map.

Chair Vitali asked if they are taking corrective action to the violation.

Ms. O'Hare said yes, they are almost done correcting the violations. The reason that they must have the drainage swale now is so the whole area can be seeded and protected moving into the winter. The map today is because the IWWC requested it. They had Ros Page of Winterbourne Services go out and produce a survey map with existing elevations on the site plan that was approved by Planning and Zoning in 2009 that showed how much over they were: about 22 feet encroachment into the jurisdictional area.

Chair Vitali said, if they correct the violations, everything's in order for next month? Ms. O'Hare said yes. This application was continued to the November 6<sup>th</sup> meeting.

**VIOLATIONS**

Ms. O'Hare said that under Violations, #7 is not a Notice of Violation. For #1 through #6, she asked for those violations to remain in place.

1. Notice of Violation – **988 East Center Street** – Benchmark Land Development, LLC & Providence and Worcester Railroad Company – (unpermitted filling & drainage alteration)

Ms. O'Hare said the improvement plans and pictures went out in the packet with the Environmental Planner's Report. This was approved on July 17<sup>th</sup>, and the Notice of Violation stayed in effect. It's in front of Planning and Zoning at its next meeting. So they were cautioned to do just the remedial work in the back involving the wetlands and the two catch basins. They put a bond down and started work. I have been out there several times and had them put in a few more hay bales. He's going to be planting seed this fall. As per my Environmental Planner's recommendations: I would like the Commission to affirm that you would like it planted this fall, not bare until next spring. In particular: They did not remove the fill around the old oak tree. Half of the oak tree died. But if they remove the other part of the fill, maybe that tree could be saved – that's on the Tilcon property.

Chair Vitali asked, so a vote to confirm the Notice of Violation still exists and we would like to have the planting done this fall rather than going over the winter.

Ms. O'Hare asked, do you want any placards, such as for workers who might feel like dumping sand out in the back?

Chair Vitali suggested the applicant should put a placard on the tree, and we need a vote to confirm that the mix of violations stays in place and to remove the fill around the tree.

**MR. PARENT: MOTION THAT NOTICE OF VIOLATION – 988 EAST CENTER STREET – BENCHMARK LAND DEVELOPMENT, LLC, TO HAVE THE VIOLATION REMAIN IN EFFECT, AND THAT THE COMMISSION DESIRES THAT PLANTING BE DONE BY FALL AND THAT THE SAND AROUND THE OAK TREE BE REMOVED.**

**MS. PHILLIPS: SECOND**

**VOTE: PHILLIPS – YES; PARENT – YES KERN – YES; MCKEEN – YES; CHAIR VITALI – YES**

Commissioner Kern thought the abutting property has fill on it placed by Tilcon. Ms. O'Hare said Benchmark had put the fill there on Tilcon property, and we had Benchmark get a letter in August in which Tilcon said, "Whatever they have to do is fine."

This Notice of Violation remains in effect.

2. Notice of Violation - **#A16-2.1 / 530 Church Street** – Joseph Mineri, Timberwood Homes, LLC (erosion & noncompliance issues)

Ms. O'Hare said a copy of her September 19<sup>th</sup> letter to Joseph Mineri, Timberwood Homes, went out in the packet. She said everything looks good; erosion controls are in place, and Mr. Mineri has taken corrective action. He was down to three gullies on the side of the storm basin, which he remediated and they're holding up. She told him to take down the silt fencing and to install some placards that were removed.

Chair Vitali said the Commission wants the Notice of Violation to stay in place with these conditions.

**MR. PARENT: MOTION THAT NOTICE OF VIOLATION #A16-2.1 – 530 CHURCH STREET – JOSEPH MINERI, REMAINS IN EFFECT AND THAT THE CONDITIONS SET FORTH IN THE LETTER TO MR. MINERI FROM THE ENVIRONMENTAL PLANNER DATED SEPTEMBER 19, 2019, BE COMPLIED WITH.**

**MS. PHILLIPS: SECOND**

Chair Vitali noted that each side of the driveway on Route 68 is not being mowed. Does the State or someone own it? It's not a violation, but it's of interest. Ms. O'Hare will find out.

**VOTE: MS. MCKEEN – YES; MR. KERN – YES; MR. PARENT – YES; MS. PHILLIPS – YES; CHAIR VITALI – YES**

This Notice of Violation remains in effect.

3. Notice of Violation - **52 Hanover Street / Quinnipiac River** – Mary Jane Webster Legace, et al – Frank Vitale – (forest removal)

Ms. O'Hare said 34 trees were cut down. Some 30 trees were put back (saplings and shrubs and some willow plugs from NRCS) some time ago. She warned the owner to keep watering the trees as it's sandy soil and these have to get established. The Notice of Violation should stay in effect through the winter. He has been cooperating, planting everything himself.

Chair Vitali asked for a Motion.

**MR. PARENT: MOTION THAT NOTICE OF VIOLATION – 52 HANOVER STREET / QUINNIPIAC RIVER – MARY JANE WEBSTER LEGACE, REMAINS IN EFFECT.**

**MS. PHILLIPS: SECOND**

**VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES**

4. Notice of Violation – **12 Old Colony Road** – Old North Colony Road Properties, LLC – (unpermitted stockpile deposition, uncontrolled erosion & deposition in wetlands, stream, & upland review area)

This matter was discussed earlier (see above under "Receipt of New Applications"). Chair Vitali reiterated that this Notice of Violation stays in effect per our documentation.

**MR. PARENT: MOTION THAT THIS NOTICE OF VIOLATION – 12 OLD COLONY ROAD - OLD NORTH COLONY ROAD PROPERTIES, LLC, REMAINS IN EFFECT.**

**MS. PHILLIPS: SECOND**

**VOTE: MCKEEN – YES; KERN – YES; PARENT - YES; PHILLIPS – YES; CHAIR VITALI - YES**

5. Notice of Violation – **1245 Old Colony Road & Quinnipiac River** – Jerzy Pytel –  
(unpermitted clearing & filling near river)

Chair Vitali said Ms. O'Hare is requesting for this to be in conference with the Law Department. He indicated the IWWC has been working with this person since July, and little was done. The engineer is to do a survey map. Ms. O'Hare asked to get this property stabilized for winter. He stated we should instruct Ms. O'Hare to lay down a boundary line from maps and to create where we want the material to be pulled back from.

Chair Vitali said there is a Notice of Violation. I think we should instruct Erin O'Hare to do what's right as to having a survey of the property line. Ms. O'Hare said, if the Commission wants to put the Notice on the Land Records, then it should make findings based on the Notice of Violation that was issued June 4<sup>th</sup> as they have complied with some of the orders but not all; or, you could wait until November 6<sup>th</sup> to do that. Chair Vitali said, first, we cited them for violations and we would like something on the Land Records. If you think it should be on the Land Records, you need to send us a memo on what should be put on the Land Records. We'll just keep this Notice of Violation.

Ms. O'Hare said the Commission can just keep the violations in effect. Ms. O'Hare said, as you are directing me to do the mapping, could you also order the owner to follow staff's direction after the rough mapping is completed?

Commissioner Kern asked if there has been any activity on the property in the wetland.

Ms. O'Hare said the owner has not done anything on site since I asked him to put in a silt fence on July 16. He has retained engineer Bob Amantea and he is waiting for a survey map. For enforcement, the map will tell us where the southern boundary line is because I feel there's material over the line; also, where the 100-year floodplain line is and where the Floodway is. The Town Planner has enforcement over the Floodway. You can't keep anything in the Floodway or the floodplain, and there's our 50-foot boundary of the wetlands.

**MR. PARENT: MOTION THAT THE NOTICE OF VIOLATION FOR 1245 OLD COLONY ROAD & QUINNIPIAC RIVER – JERZY PYTEL - REMAINS IN EFFECT.**

**MS. MCKEEN: SECOND**

**VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES**

Chair Vitali called for a second motion to instruct Ms. O'Hare to find a boundary line in order to remove material that she feels is in the upland review area. Ms. O'Hare read her wording in the Environmental Planner's Report, page. 2, entry #1:

**#1. That the Commission directs the owner/violator to complete a rough determination of the location of the 100-year floodplain boundary using FEMA mapping, the existing Burnham site plan, aerial images, and other map information and then, using that approximation, determine in the field which areas of unpermitted filling and stockpiling currently occur within those boundaries and take immediate action to remove or relocate them now before winter weather arrives.**

**MR. PARENT: MOTION THAT THE ENVIRONMENTAL PLANNER BE DIRECTED TO CARRY OUT THE FOLLOWING STEPS THAT ARE LISTED IN THE ENVIRONMENTAL PLANNER'S REPORT DATED SEPTEMBER 26, 2019, PARAGRAPHS #1 AND #2 ON PAGE 2.**

In discussion, Ms. O'Hare asked to modify the Motion to delete item #2 because that item is the violator's responsibility. Mr. Parent agreed to just cite paragraph #1 in this Motion.

**MS. PHILLIPS: SECOND**

**VOTE: MS. MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES**

Ms. O'Hare will notify the owner of these two Motions.

6. Notice of Violation – **1103 Old Colony Road** – NRWA, LLC – (unpermitted clearing, regrading and deposition of material in wetlands onsite & in pond & wetlands on 1127 Old Colony Road)

Ms. O'Hare said that her Environmental Planner's Report went out in the packet.

Chair Vitali said this is the gas station on the corner. He and Commissioner Kern met with a foreman who was agreeable to get the property back to where it was. Also, we were looking for an outlet behind the building. Apparently, there is no outlet back onto Hartford Turnpike. The owner has brought in some asphalt. Chair Vitali had seen paving done over the property line that belongs to the neighbor. He did not think the Commission should instruct him to remove the paving on the neighbor's property. Also, he did not think the Commission could instruct the neighbor to remove the paving in the upland review area. The violation stays in effect, he stated.

Commissioner Kern asked whether the State of Connecticut has an easement or agreement with the property owner allowing them to dump their stormwater where the pond is. Ms. O'Hare thought that the stormwater runs off Old Colony Road straight into the pond off the side of the road. Commissioner Kern believed that it comes from the top of the hill, goes under the trestle, misses the catch basin, and goes across the street, and the State has come in and cut a pathway from the side of the road west, right over to that pond. Ms. O'Hare said that is not shown on the survey maps, just the catch basin. She added that the pavement was put in about 10 years ago. No easement is shown on the property maps or the A-2 Survey, but she will check.

Chair Vitali thought Harold Sweet may own that. He asked to clarify who owns the property where the retention pond is and where the illegal asphalt has been paved. He thought the paving was on the wetland. Commissioner Kern said the paving is in the upland review area. He added they removed the trees and the stuff they pushed into the pond, but they left the material there in piles and added asphalt on top of it. He asked, when are they going to remove the piles all over the property?

Ms. O'Hare said this is the first time she heard anyone wanting the old paving removed. She said the younger Mr. Sweet, Hal, wanted to erect a fence on his property line to prevent people parking in there. Ms. O'Hare said she was there today at 2:00 p.m. with the owner and saw one pile of asphalt and had asked the owner when he was going to remove all the dirt. He pointed to the empty container and told me when he has the money. He keeps removing more fill. He needs to find the

end of the blue drain pipe. They did not put in the depressional low area behind the main building yet. They didn't clean out the rest of the stream, which the Chairman saw and wanted done. It needs to flow better, so he said he would do it.

**MR. PARENT: MOTION THAT THE NOTICE OF VIOLATION – 1103 OLD COLONY ROAD – NRWA, LLC - REMAINS IN EFFECT.**

**MS. PHILLIPS: SECOND**

**VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES**

Commissioner Kern said the Commission has to have some recourse. Ms. O'Hare said Planning and Zoning would let him open up. He has only done some paving, and they were working on the façade today.

This Notice of Violation remains in effect. Chair Vitali directed Ms. O'Hare to write him a letter of things that need to be done by October 15<sup>th</sup>, or the Commission is considering putting this on the Land Records.

7. #A18-1.2 / **801 North Colony Road & 6 Beaumont Road / Padens Brook** – NERP Holding & Acquisitions Company, LLC – (riparian buffer plan issues) – progress report, submitted 9/5/19

Ms. O'Hare said this is a progress report. It's from REMA Ecological, all about the plantings going on there in October. Ms. O'Hare was directed to forward a letter to get the work finished and grass seed in before October 15<sup>th</sup> so the grass can grow before winter. Chair Vitali asked about keeping the Japanese knotweed down. They were going to treat every stalk. Ms. O'Hare reported they cut it four times and then the landscaper applied the chemicals.

Commissioner Kern said when you drive by, you see the concrete pipe and the tree that's laying on its side. Commissioner McKeen said when everything grows up, you won't see the tree.

**REPORTS & COMMUNICATIONS**

1. CACIWC – Ms. O'Hare indicated membership dues of \$75.00 are due.

**MR. PARENT: MOTION TO PAY DUES IN THE AMOUNT OF \$75.00 TO CACIWC.**

**MS. PHILLIPS: SECOND**

**VOTE: MS. MCKEEN - YES; MR. KERN – YES; MR. PARENT – YES; MS. PHILLIPS – YES; CHAIR VITALI - YES**

2. CACIWC Annual Environmental Conference, Cromwell, CT, Sat., Nov. 23, 2019  
Ms. O'Hare will attend, and she said that any member's registration fee can be reimbursed.

## **ADJOURNMENT**

Mr. Parent made a motion to adjourn the meeting at 7:49 p.m. Ms. Phillips seconded the motion, which was passed unanimously.

NEXT MEETING - will be on November 6, 2019.

Respectfully submitted,

Kathleen L. Burns  
Recording Secretary