

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. BUSINESS MEETINGS

III-A. PUBLIC COMMUNICATIONS and requests to address the Commission with non-agenda items:

III-B. OLD BUSINESS

1. PERMIT-APPLICATION #10-01, SUROVOV PROPERTY -113 LONG MEADOW ROAD. A proposal for an after the fact permit to construct a bridge and retaining wall along a watercourse within the Means Brook flood plain.

2. PERMIT-APPLICATION #10-10, SCENIC GROVE ESTATES – 252 GROVE STREET. Proposal to create a 15-lot subdivision involving wetland fill and watercourse piping for road construction and discharge of stormwater.

3. PERMIT #09-17, DASILVA PROPERTY – 8 BROOKFIELD DRIVE. Request by owner to address Commission regarding directive to comply with approved permit versus potential revision application.

III-C. NEW BUSINESS

1. PERMIT-APPLICATION #10-11, SHELTON RESERVOIR #3 CAUSEWAY CILVERT – NELLS ROCK ROAD. Proposal to install cross culvert to restore or equalize flow between water bodies.

III-D. COORDINATOR REPORT

VI. MINUTES August 12, 2010 Regular Meeting

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*CITY OF SHELTON
INLAND WETLANDS COMMISSION
REGULAR MEETING MINUTES
Thursday, September 9, 2010
7:00 P.M., Room 302*

Chairman Zahornasky called the Regular Meeting of the Inland Wetlands Commission to order at 7:00 P.M.

I. PLEDGE OF ALLEGIANCE

All in attendance recited the Pledge of Allegiance.

II. ROLL CALL:

Gary Zahornasky, Chairman
Celeste Beattie, Commissioner
Robert Dunford, Commissioner
Neil Hayes, Commissioner
Ken Nappi, Commissioner
Charlie Wilson, Commissioner

Absent: Jack Goncalves, Commissioner

Also Present: John Cook, WCEO
Sophia Belade, Clerk

III. BUSINESS MEETINGS

III-A. PUBLIC COMMUNICATIONS and requests to address the Commission with non-agenda items:

There was no one from the public that wished to address the Commission.

III-B. OLD BUSINESS

1. PERMIT-APPLICATION #10-01, SUROVOV PROPERTY -113 LONG MEADOW ROAD. A proposal for an after the fact permit to construct a bridge and retaining wall along a watercourse within the Means Brook flood plain.

Peter Sorovov
113 Long Meadow Road

Good evening ladies and gentlemen, I guess we still have to resolve this problem. My understanding was that the question was how to build the wall and how the water would be dredge into the brook. I do have as indicated in my drawings, there is a special provision of draining the water, and there is a pipe. If it is not sufficient I will listen to your conditions but the issue with the bridge is that this April, I constructed the bridge but the water will be below that in the worse case scenario, but this April it was three times under water because of the sand buildup. In April and may, there was a sandbar, now it's the woods

over there, a forest it's 12 feet high, there's trees growing and grass growing. I don't know how the water was going to flow to begin with, so we have a dependency here. I depend on the City to make their decision and you have to make your decision depending on this issue too. Sand accumulation is the reason I was building the wall, to protect my property, but if there will be any action from the City or not, I have a right to protect my property. So I have a dependency and I requested more time to resolve that on your part because I didn't receive any answer from the City or what the City action would be to either dredge it or remove this sand, what you're going to do because the water level is really too high and it is clearly in violation of the federal Clean Water Act by the City. That's our big issue in the City I think and we need to resolve that. That's all I have to say, I need more time on both sides, not because I'm not ready, but you're not ready too. I was asking all these questions and I didn't get no answers from anybody, not from the Engineering department, not today, not yesterday but the last 30 years. For the last 30 years, the first attempt that we were trying to dredge the thing, 30 years ago for some reason it was blocked, but now it was a small problem and they were doing that for free, now I have a big problem with the sand build up with tons of build up, hundreds of tons of buildup. How you're going to remove it I don't know. I didn't give anyone permission to put sand on my land. That's clearly a violation, not only me but our entire association have the same feelings and they're requesting an investigation from the Wetlands Commission on the status of Means Brook. That's all I have to say.

Commissioner Nappi asked if September 20th would be enough time to provide what is needed. Mr. Surovov responded, did I get any answers from you, will you be able to tell me that the water level will be the same, are you going to dredge, are you going to remove the sand, because I cannot removed hundreds of hundreds of tons of sand by then. Commissioner Nappi interjected that we do not have anything to do with the sand. Mr. Surovov questioned you don't. Commissioner Nappi continued, you asked for an extension and I'm asking you would September 20th be enough time for you to come back with what we need. John, I understand that we need some information from him concerning some samples. Mr. Cook responded yes the drainage analysis. Commissioner Nappi continued will you have enough time to provide us with that. Mr. Surovov responded that the drainage analysis is directly connected with dredging of Means Brook. If the water level is so high that I built the drainage pipes and the water goes back from the brook onto my property, it doesn't resolve any problem; it defeats the entire purpose of building the wall sir. So no it's not enough time. Commissioner Nappi stated that's the maximum extension we can give to him. We either have to deny the application or he would have to withdraw it. Mr. Surovov added well you only meet once a month; twice there was no quorum, once I missed because I had personal issues. So once a month, what is the duration of my application? If you don't meet on September 20 what does that mean? John Cook responded, it's based on the date that the application was filed and the Commission has 65 days to review and digest an application and act upon it, then that could be extended for an additional period of a maximum of 65 days as spelled out in the Commission regulations in the State Statute.

After that time neither you nor the Commission could consent to any more extensions because it is spelled out statutorily. Mr. Surovov asked so the months you didn't have a quorum doesn't count? Mr. Cook responded the clock continues the start of the clock is based on the first meeting which was back in May, so whether or not the Commission could meet once a week or once every two months, that's the Commission operation, the clock continues to run no matter how often or not the Commission meets. Commissioner Nappi continued, if it's not enough time there are only 2 other options and that is for you to withdraw the application or us to take no action. Mr. Cook stated that the Commission could either deny the application for insufficient information or the other thing would be to try to extract out the foot bridge from the wall work, if all parties were agreeable with that with subject to P&Z. The pictures there kind of show where he was at with it, it's still below that natural grade, so if it were just capped off until that drainage analysis was completed because Mr. Surovov believes that he can't do the analysis because it's dependent on what the City does. The City is not in the position to do an analysis at this time and I don't believe that the Board of Aldermen are considering it at this time. So the analysis to address your work and in a couple of the emails that I received from the City Engineer about the flood ordinances, even though the flood ordinances are set from the

Commission's proceedings, they are interrelated because of all the various properties involved. So that is why I was trying to create the various options available. Now a withdrawal is a withdrawal without prejudice so that at the same time the bridge is actually completed and that's why I threw that out there if the Commission is interested in entertaining that as well as the applicant.

Mr. Cook continued, if the bridge was submitted by itself, assuming that everything else worked out; it would have received a favorable action. Then in looking at the pictures where he stopped his work, he wants to go higher than that, but if the wall were capped at that point for the time being and until such time, that either the City or Mr. Surovov were able to complete a drainage analysis to raise that wall as per his proposed plan, then that could be revisited at that time and that may not be in conflict with the flood ordinance if it was capped at that height. Chairman Zahornasky stated that the crux of the situation is the flood ordinance with the wall. Were we not waiting for someone to get back to us with information? Mr. Cook responded yes by Mr. Surovov. His contention is that he can't do the drainage analysis unless the City does certain things first. Mr. Surovov agreed. Chairman Zahornasky stated that if he withdraws and he comes back next month we're still faced with the same issue. Who's going to do the drainage analysis? We're going to be in the same boat as we are right now. He can't do it and the City can't do it. This is an after-the-fact application. Mr. Cook stated that it's not completed, the bridge is completed and half of the wall is completed. The theory is if there was some middle ground so that it's not in conflict with the flood ordinance at least the yard could be put back to some assembly of order. Chairman Zahornasky asked if it is in violation of any flood ordinance because nothing has come to this Commission stating that. Commissioner Nappi stated that came from Engineer. Mr. Cook added correct and also P&Z and that is why in my August comments I stated regarding the wall, since the detailed drainage analysis not available allow the wall to be capped at its present height or at a grade subject to a favorable concession by P&Z per the flood ordinance. If that wall in those pictures doesn't conflict and they may be able to make that judgment without having to make it full grade. Chairman Zahornasky stated let's say he withdraws his application, then he goes to P&Z and have P&Z come up with a height for the wall, then he comes back and tells us here's the wall, here's the height, it's ok by P&Z and the flood ordinance and we get this off the table. Commissioner Nappi suggested we send correspondence to P&Z and ask them to take action on this issue. Mr. Surovov added that I'm not planning on building the wall higher, I will cap it at the same height, and the question was putting the bridge higher because I have to rebuild the bridge because it's flooded. Last year it didn't flood, this year it flooded and the bridge was under water.

Mr. Cook stated nothing has been submitted to P&Z. In your cross section you actually show a wall higher than what you show the base. The cross section shows that you're actually going up higher and that's where P&Z and the City Engineer as a consultant for P&Z in regards to the flood ordinances that there are still some issues there and in order to comply with that, because the Commission does not want to add to something that's in conflict with another ordinance. Your cross sections do show the wall 3' higher. Mr. Surovov added it's already 6', its 6' to this level right now; it's not going to be higher. I have to lift the bridge, not the wall. Chairman Zahornasky stated that you should go to P&Z first. Commissioner Hayes stated so he's acting in a regulated area without permission and that's why you're here. Mr. Surovov responded correct. Chairman Zahornasky stated I don't have a problem with him raising the bridge or the wall, it's just that when it falls into the flood plan I don't want to approve something and it goes against another ordinance so that's why we have nothing to do with the flood ordinance, P&Z does. We need an OK by P&Z that states that the wall is ok by the flood ordinance, if they ok the wall, I don't have a problem with it. He will then have to come back to us for a formal approval. That's why I feel he should withdraw this application, go to P&Z, submit his plans and have P&Z make the call on the wall. Commissioner Hayes asked why it's been on the table for so long. Mr. Cook responded because we were awaiting a drainage analysis, when Mr. Surovov looked into what a drainage analysis would entail he couldn't.

WCEO REPORT
September 9, 2010

APPLICATION #10-01, SUROVOV PROPERTY – 113 LONG MEADOW ROAD

- STATUS:** 1. Application received May 13, 2010
2. 65-day clock to decide action or hold public hearing expires July 17, 2010
3. Email from Mr. Surovov to be placed on next agenda rec'd. 8/11/10.

COMMENTS: Nothing further has come to the office for review or referral to engineering. We reiterate comments from August regarding both the foot bridge and the retaining wall attached below. Alternately, the applicant may withdraw the application.

COMMENTS FROM AUGUST: We have not heard or received any further information from Mr. Surovov. Nor has there been any further extension. The maximum extension would take the proceeding to September 20, 2010.

Based on the information available at this time staff offers the following suggestions. The foot bridge is well built, complete and would have likely been considered for a favorable decision had been proposed before construction. Subject to paying the appropriate permit fees this aspect may be acted upon. Regarding the wall, since the detailed drainage analysis is not available consideration allow the wall to be capped at its present height or at grade subject to a favorable consideration by P&Z for the flood ordinance. This action provides for a portion of the owners original proposal to be completed without the expense of the analysis, provides a stable treatment along the watercourse.

Should the drainage analysis come this evening an additional extension will be necessary for consideration of the application and subsequent referral to engineering for compliance with the ordinance.

COMMENTS FROM JULY: As received email from Mr. Surovov consenting to place item on next agenda.

COMMENTS FROM JUNE: Mr. Surovov met with representatives of the Engineering and Planning Departments relative to the question on the flood ordinance criteria and requirements. Staff sat in on that discussion. Mr. Surovov will provide the required items which included flood data and additional information regarding the wall construction and grading.

We are awaiting this additional data.

Commissioner Wilson motioned to approve PERMIT-APPLICATION #10-01, SUROVOV PROPERTY -113 LONG MEADOW ROAD. A proposal for an after the fact permit to construct a bridge and retaining wall along a watercourse within the Means Brook flood plain; subject to Planning & Zoning's favorable consideration of flood zone ordinance. Commissioner Nappi seconded the motion.

Discussion: Commissioner Nappi stated but all we are concerned about is the impact of the wetlands not the height. Mr. Cook stated that if P&Z stated that the wall is 2' too tall, this Commission's action would still stand because it would be based on what it approved. If P&Z looks at it and all the analysis comes together and the wall can go 3' higher based from that other image, the Commission action is still valid because it was stated subject to compliance.

A voice vote was taken; motion passed unanimously.

Chairman Zahornasky stated that staff should send a letter to P&Z stating what this Commissions finding were and what the Commission's decision is.

2. PERMIT-APPLICATION #10-10, SCENIC GROVE ESTATES – 252 GROVE STREET.
Proposal to create a 15-lot subdivision involving wetland fill and watercourse piping for road construction and discharge of stormwater.

Stephen Bellis
Representing the Applicant 252 Grove LLC

Jim Swift
Landscape Architect/Professional Engineer

We had a presentation last month pending reports from the City Engineer and from staff.

WCEO REPORT
September 9, 2010

**APPLICATION #10-10, SCENIC GROVE ESTATES – RICHARD
BOULEVARD/GROVE STREET**

STATUS: 1. Application received August 12, 2010
2. 65-day clock to decide action or hold public hearing expires October 16, 2010

COMMENTS: Review to this date confirms the following: Field inspection and photographs indicates some erosion in a few locations but not significant. However, it is the position of the second owner downstream the erosion is significant. The 1988 topographic data shows the channel areas on the Gomis property via the v-shape versus u-shape contours. V-shape contours indicate a sharper defined channel when compared to u-shape contours. The watercourse channel on the McNeil appears stable and little difference from 1998. Beyond the Gomis property the watercourse nearly disappears into the ground at several locations as the stream profile flattens dramatically.

A major concern exists with the proposed location of the detention basin. It brings to mind the Sunset Ridge Subdivision in which the detention basin and runoff issues ultimately took 10-years to resolve through legal negotiations. On September 2, 2010 a meeting was held in the Mayor's office along with Administrative Assistant and one Alderman from the pertinent ward, City Engineer, P&Z Administrator, I/W staff and the Mayor.

The proposed plan for the detention basin shows a 1:1 rock slope or rock cut only 20' from the proposed dwelling. Staff recommends elimination of lot-8 to afford a design opportunity to place the detention basin within this area and identify the parcel as open space or drainage easement to avoid having such a structure on the lot. Field visit of the site confirms the grades are softer in this location. The basin could be designed to adjacent to the wetland corridor and improve functional value over the existing condition. Also by using more of the upland provides greater work area to provide reasonable slopes around the backside of the basin. The present location for the basin is located on some of the steepest soil area of the site.

The proposed cross culvert under Richard Boulevard should be raised to match the existing grade. Presently it is shown to excavate 36" below normal grade to install the cross culvert. The excessive excavation will tend to dewater the limited wetland remaining and shown to be not impacted. It also creates the opportunity to create erosion of the soil migrating upstream towards the Matto property. There is a need for plan clarification as the majority of the plan sheets show a 24" pipe, however one sheet shows a 36" storm.

Alderman Kudej met with staff on September 3, 2010 and expressed concern over existing issues with Grove Street, drainage and traffic. Not all relate to the Inland Wetland Commission review but he received copies of the plans to review and thereby better converse with any affected constituents. He was also expressed at the mayoral meeting that any significant changes should be worked on sooner rather than later.

COMMENTS FROM AUGUST: Recommend receipt for review. The drainage analysis and plan package has been forwarded to City Engineer office for review. The proposal involves the creation of a 15-lot subdivision involving road construction over a small linear regulated area of wetland soil and watercourse. A stormwater detention basin is proposed along with individual infiltration on all the lots.

In 1998 there was an application to pipe the watercourse along a property line on the lot beyond the discharge point of Richard Boulevard. The Commission denied the application at the time because the channel was stable, there was downstream concern on adjacent properties and there was no

necessity. The Engineering Department advised against piping at the time as well. The present application proposes extending pipe beyond that needed to cross over for the road.

While there is a sizeable detention basin proposed, staff would express initial reservation over the added piping. Review has commenced.

Mr. Swift asked if he could put a synopsis of the issues. There is a berm that needs to be constructed on this side and on this side of the pond there's grades and you're going to hit ledge and have to excavate straight down or a 1:1 rock slope, so these grading conditions are what John's getting at and the pipe may be better off located here. The second thing is that where this stream comes down and then there's the culvert, the culvert is 3' maybe below the actual elevation of the watercourse.

Attorney Bellis interjected, I just want to state before you go on; we were not invited to the September 2 meeting. I wasn't there, Jim wasn't there nor were any of the builders, so whatever they did, we have no input put in place. Secondly, John makes mention of Sunset Ridge, we didn't build that project. We had nothing to do with it. I just wanted you to be aware of that; we had nothing to do with that project. Mr. Cook stated that I did have a conversation with Jim Swift and the reason I did mention that particular development and different circumstances altogether but at the same time to demonstrate a hillside detention basin, based on the City's most recent experience, does cause for concern. That's the only reason why I mentioned that. Mr. Swift agreed that with stumps sticking out of the berm and things like that they will give you trouble. I'd like to have the City Engineer's letter read into the minutes.

John Cook read City Engineer letter into the minutes:



4-824-1555 Ext 17
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Email: shelton.eng@cityofshelton.org

City of Shelton
Office of the City Engineer
54 Hill Street
Shelton, Connecticut 06484-3207

10-10

Robert F. Kulacz, P.E.
City Engineer

Rirras J. Balsys
Assistant City Engineer

September 8, 2010

John R. Cook
Wetlands Coordinator
City of Shelton
54 Hill Street
Shelton, CT 06484-3207



Re: Scenic Grove Estates, Richard Boulevard;
1) Storm Drainage Report dated July 30, 2010
2) Erosion Control Plan, Sheet 2 of 5, dated July 30, 2010

Dear Mr. Cook:

This office has reviewed the above referenced application to extend Richard Boulevard from its present terminus westerly to Grove Street, and to construction 15 new single-family homes. The current stormwater management plan proposes several very undesirable design features in a watershed where major concerns and reservations have been expressed by property owners located downstream of this proposed development.

In order for this application to receive an endorsement from this office, significant design revisions will be needed to correct the deficiencies and concerns presented in this critique. I recommend that the application be tabled and the Commission request revised drawings and an amended Storm Drainage Report be submitted that address the deficiencies and omissions noted.

The following design elements are not acceptable and must be revised:

- The proposed detention pond on Lot 7 is located on a hillside and will require an embankment (dam) area.
- The grade differential between the existing undisturbed ground adjacent to the proposed house (Lot 7) and the bottom of the pond excavation is 25 feet. This steep 1:1 slope or potential rock cut is located only 20 feet from the house.
- The existing watercourse that traverses the McNeil property should remain in its natural state and not be piped. The increase in water velocity at the outfall has the potential to start erosion downstream.
- The plans propose locating and concentrating both the detention pond outlet and the Richard Boulevard culvert outlet/piped extension at a single point on the McNeil property. This point is located 10 feet from the property line between the McNeils and the concerned downstream property owners.

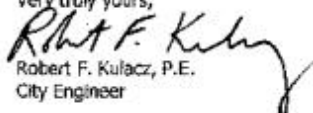


- No culvert calculations for the Richard Boulevard culvert were provided and there needs to be clarification on its diameter, which must be uniform on all plan sheets and report documents.
- There is insufficient data for the proposed Richard Boulevard culvert including the upstream and downstream watercourse profiles. What is the justification for lowering the watercourse at the culvert inlet?
- The proposed storm sewer outfall on Grove Street is shown to be connected to the existing cross culvert.
- The acreage areas were omitted in the storm drainage report executive summary.

This office suggests that the following design revisions be considered and the following amendments be incorporated into the storm drainage report:

- o Construct the detention pond on Lot 8, adjacent to the watercourse where no embankment or dam is required.
- o Provide Richard Boulevard culvert computations and maintain open watercourse channel downstream. The use of a shallow box culvert or horizontal elliptical pipe may be in order.
- o Reconfigure new storm sewer outfall at the Grove Street culvert to provide a separate outfall adjacent to the culvert outlet, preceded by a drop manhole to reduce outfall velocities.
- o Provide written confirmation that the existing Audubon Lane detention pond is compatible with the design of the proposed pond and is incorporated in the watershed analysis.
- o Provide a Watershed Map for each of the two Watershed Model Schematics and label the hydrograph numbers (points) on each map for clarification.

Very truly yours,


Robert F. Kulacz, P.E.
City Engineer

CC: Thomas D. Taylor, Administrative Assistant
Richard D. Schultz, Planning & Zoning Administrator
Alderman Stan Kudej
James R. Swift, P.E.

File: Scenic Grove Estates
RFK:lg

Attorney Bellis stated, again I know we're coming before you, we get this letter from the City Engineer today at 6:55 pm. Its puts us in a difficult spot to try and address all those concerns from the City Engineer and I don't want you to say why didn't you do anything. We didn't know about any of these things up until a few minutes ago, so it makes it difficult for us. Notwithstanding the same, we talked in the hallway and I'll let Jim tell you what we're thinking of doing and hopefully get your blessing and understanding of what you believe in or not. Here's Jim Swift.

Jim Swift continued with his presentation. A few and minor clarifications that were easily missed, this is the Culvert Report and Calculations, it's only a page. The city Engineer could have easily missed it. Getting back to what the city Engineer's recommending, I think that the City Engineer and John are on the some page of moving this pond from here to here. It ended up on that spot for the obvious reason that it is the absolute lowest point of the property and it happens to be adjacent to the watercourse that we're going to connect into. The contours are steeper and in a perfect world it would be my decision to stay there, I don't think that the berm is an issue properly constructed. Thos slopes are all outside the 15' setback to a house which is what this zone requires. We can move the pond to the other side. I had originally thought of doing that, there are a couple of reasons

why we didn't do that. One is that it is adjacent to the wetlands, we had numerous conversations with this Commission, do you use wetlands for detention, my personal opinion is that it is appropriate, some people don't. DEP isn't crazy about it either, when you use wetlands for detention the flooding that occurs in the wetlands, to any great extent is once in years, it's not every time it rains. We can design a pond on this side. The best way to do that, the house goes, this lot is twice as big then it has to be because of the house. Commissioner Nappi asked what lot number he's talking about. Mr. Swift stated 7, and we're moving it to 8. The house moves here because now we don't have to build a pond or grading. A new property line is constructed, this becomes lot 8, this property line disappears. If that is the desire to move the pond over here, now we have to talk about the right way to do it. We have this road coming down and in order for the detention pond to be effective we've got to get all of our improvements into that pond. In order to get all that water and storage area into this pond we would have to excavate this pond to a depth of 279, which would be the bottom. That's about 5-6' lower than the edge of the wetlands. We're talking about excavating a bowl in here 5-6' lower than the edge of the wetlands. John's already made the point that he's concerned that even dropping an inverted pie down there, my suggestion would be to take the pond and build it in the watercourse and use up some of those wetlands.

End Side A, Tape 1

Jim Swift continued if we were to build the pond strictly in the upland area at elevation 279, the elevation contour here is 300. That's 20' of elevation difference. I can see that it's not quite as severe as it would have been here but it's still a 20' elevation difference between the bottom of the pond. I'm asking the Commission to think whether some portion of this actual wetland soil can be used. There are two reasons for that, one is the pond berm and one is the grading. I think Mr. Gomis is going to talk about some of the impacts with the watercourse down here. If we did work up in this area over here, we had reduced the impacts from this development by some percentage points. I believe its 16 or 18% on the peak flows up here. That's for this, that doesn't have any effect on the water that's coming down on the existing watercourse. If we can design something and use part of the wetland soils and excavate a pond with depth we could perhaps improve on that and provide more stormwater detention for not only our project but for the watercourse coming down.

Attorney Bellis added there were also some concerns with piping this area that would alleviate this whole situation on the McNeal property. Mr. McNeal is here. It solves another problem too.

John Cook stated that when he had the discussion yesterday with Mr. Swift, one of the things talked about was the grade change, but with this particular lot line disappears, the next house would be a substantially greater distance from the edge of the steeper slope. It is a better situation. At the same time, the other option about excavating the grading within the wetlands, the goal is to avoid impact whenever possible; however it is very limited in its width, function, and there is a spring underneath the road right of way. That spring seasonally has almost as much flow as the water coming down from the southerly wetland corridor. Because it is flat, there really isn't much of a defined channel; it's a flat area of wetland soils.

Mr. Swift continues, so that's the issue as to whether the excavation will have effect on the wetlands and if it does then why wrestle with that, and just use some of the wetlands anyways. We can take the wetland soils, stockpile it to the sides, do our excavation, and replace the wetlands soils on the bottom of it so it would be a truly restored wetland.

As far as what Steve is mentioning, we need to go down that depth not only to get the low point of our road into there, but we also need to go down to that depth because we cannot flood past our property line. We can't use Ralph Matto's land as part of our detention storage area. We have to keep the maximum flood elevation. This pipe which is on the McNeal property right now, once we go down in depth for that pond, we can no longer get up that height. What we would propose then is to come down along the property line and come in from the side to take the velocity off. That's another thing that the City Engineer and John are concerned about. This outlet would run as flat as we could make it to take

the velocity off and come to a point of a structure take a 90 degree turn back into the watercourse, all of these things being very flat. Commissioner Nappi asked how far would this be from the structure on 8? Mr. Swift replied if 8 has a house on it, there is a 15' setback, we'd increase that to 20, we'd run the pipe right down the middle of that.

Peter Gomis
Resident of Shelton

I have a question regarding your comment of channeling the water from the alternate location of the detention pond and then having to take a right angle and then drain somewhere, who's property do you expect that water to drain onto? Mr. Swift responded that drains across lot 8 and into the City drainage easement. Attorney Bellis added that right now it doesn't show on this map, there's an easement on the McNeal property from approximately Richards Boulevard already for drainage. Mr. Swift added if you're concerned about discharge onto your property we have no rights and no intentions to do that. Mr. Gomis stated I understand but it would be indirectly onto my father's property and my property. Mr. Swift replied yes, at a reduced flow. Mr. Gomis replied but its still additional water. Mr. Swift replied no, it'll be less water. We're talking about trying to enlarge these retention areas that will hold water temporarily and act like a bathtub. Right now the proposal is that there is an existing watercourse that comes down, the design right now is that we don't touch or do anything to the water that is flowing now, but we take all the development on our property and we collect it and we put it in this detention pond and we squeeze it down, the lowest opening here is 4x4. That's basically for a 2 year storm. What we're talking as a modification is instead of this pond which handles this, they allow us to put a pond in here and use some of the wetland soils for excavation we have no room to make it bigger so we can not only squeeze our discharge, maybe we could knock down some of the flow that's already coming down from here.

Chad McNeal

What the picture doesn't show of my property is that since Audubon was built my driveway and my whole property has sunk 4 inches. What I like about the proposal here is where the second proposed drainage pond that will help control the Audubon problems. It is a problem; I get 10' wide rivers on my property when it rains.

Commissioner Nappi asked if there is more presentation before we have comments coming back and forth. Mr. Swift replied no, I'm looking for feedback from the Commission as to whether or not they would entertain. Commissioner Nappi stated but I hear that because of what the City Engineer has addressed you need more time to address the issues. How about John's concerns? Do you have anymore concerns John? John Cook responded when we had our meeting yesterday, all you could do is take a look at it and maybe it will work and maybe it doesn't. But when I was walking in the field, that's why I came up with the idea of moving it and you did bring up some valid points that there will be some impacts. The overall core of wetlands that exists there is pretty limited in scope. Ideally if you can expand upon it that would be great if not there are those other options. What the ultimate solution would be the Commission but certainly having the ability of looking at some other options at shifting that down particularly if it satisfies some additional concerns. Commissioner Nappi asked if John Cook and Mr. Swift felt that this plan has less impact on the residents down stream than the previous one. Mr. Swift replied it has the potential because if we do work up here and we can get into the wetlands and excavate I feel I can get more acre feet of storage. Mr. Cook responded every wetland doesn't provide the same things equally, in this particular case it's providing stability of the down stream property and if it can improve on that stability you're then satisfying multiple concerns.

Peter Gomis

I'm Peter's father and that's my property. The way the detention pond works is it comes in one inlet and goes out the other just as fast. I would like to know the design. I've clocked it and within an hour it comes gushing.

Mr. Swift replied I've designed that one. What we did was put a plate on that. Mr. Gomis stated it's been 10 years, that's when we started getting the erosion. Mr. Swift replied and we modified the outlet structure.

Everyone speaking at once

Mr. Swift continued, on a 100 year storm the retention time is approximately 6-7 hours. That's how long it takes for the bathtub to drain. Mr. Gomis stated not now. Now we get a river coming down. This has eroded to a channel as wide as 16' in some places and it's as deep as 4' in some places. There are boulders as large as automobiles. Chairman Zahornasky interjected, let him design it, let him come back with all the numbers and the way they are hoping it will work is that it will slow down the water going into your property, you'll have less water going through.

Attorney Bellis added we just wanted to get a feel before we go ahead and spend the money and time. We'd like to know if this Commission would entertain this and are you in favor of this. Mr. Swift advised the guests present that he would be happy to take any information they have and he would review it. Commissioner Hayes asked what type of material is at lot 7. Mr. Swift replied that there is a bit of exposed ledge towards the back and it is less evident as you get closer to the houses. Our first instinct is not to come in and show more wetlands disturbed than needed. Commissioner Nappi questioned about the Audubon pond. Mr. Swift replied that the Audubon pond in its current configuration is accounted for in the calculations. That pond is located here. Mr. Cook stated and the outflow from that pond goes to two Matto ponds. Mr. Swift stated yes. Mr. Cook continued one more observation or comment all the Engineers provide these drainage analysis based on the accepted practices here in our region in Connecticut and many times I've heard from the local residents after the project is done they still have a problem. Most of the drainage analysis and measures during these big storms, is there a way of metering your outlet to address those cloud burst that seem to have an intense effect because the systems are designed for a larger storm event over a longer duration versus a shorter event. Mr. Swift replied if I had my way we wouldn't be talking about a 50 or 100 year storm. All of our efforts would be going into those things. But I would like to remind the Commission what we've done on the roof drains is something that's not been done with a subdivision before in this town which is that each one of these houses is required to have a 30/50 roof drain infiltration system to such a degree that these are all being designed so that all the roof drains disappear right up to the 100 year storm. 7.2 inches of rain can fall on top of these roofs.

The consensus of the Wetlands Commission was to have the applicant continue with the proposed plan and all areas of concerns of the Commission as well as the city Engineer and to come back at the next meeting with any new proposals.

3. PERMIT #09-17, DASILVA PROPERTY – 8 BROOKFIELD DRIVE. Request by owner to address Commission regarding directive to comply with approved permit versus potential revision application.

Manny DaSilva
8 Brookfield Dr

I'm before you again because I expanded without John's consent of the approved design. Now I'm trying to see if there is a way that I can come up with a mitigation plan to warrant compliance. I built a shed a little bigger than what I was supposed to, to create a storage area, that area towards the back and then I put a gravel access way to get there. What I'm proposing is to take all that gravel out and plant some more pine trees, the same as John has approved in this area to make that a no impact area and I'm willing to move the door to the other side so that I'll use the gravel that was already there. That gravel was there from when I built the first shed, I expanding upon that and went a little further and made an access way to the back to the wood storage area. I'd be willing to close off that door, put a door to the other side and limit my access to the left side of the shed and replant and have no disturbance on the right side.

Commissioner Beattie stated let me understand, you were told to make it smaller. You're not making it any smaller or taking anything away. Mr. DaSilva replied I'm taking the gravel away and replanting. Commissioner Beattie interjected I'm talking about the shed. Mr. DaSilva replied I would like not to. My neighbor there doesn't have an issue with it. I built it nicely so it would be aesthetically appealing.

Commissioner Hayes asked if this is a new application or still the old one. Chairman Zahornasky replied this is what it is, he came in for the first shed we gave him approval for the first shed after discussions. Then he came back for a second shed which led to even greater discussion. In the end he was given approval to build the second shed but in doing so Mr. DaSilva in hindsight he built it 16' larger than what was approved by this Commission. We hammered out an agreement and gave him permission to build a second shed and the way I looked at it was he thumped his nose at us and said you know what I'm just going to build a shed whatever I want. So the heck with the Wetlands Commission and I go ahead and build this shed 16' larger. Now we said that's not what we gave you approval for, so take the 16' off of the shed. That's what we directed him to do. Now Mr. DaSilva is back here again asking that we not make him take his shed down. I didn't make the mistake. Commissioner Hayes stated should this be a new application because how much of John's time is going to be wasted on this application that is done with.

Commissioner Nappi asked if there was a building permit. Personally I can't act on something that isn't permitted. That should go back to the Building Department.

Everyone talking at once

Mr. Cook stated we've already acted on this and he asked if he could back before the Board to try to persuade you and not have to take it down. Mr. DaSilva stated that he would be willing to pay a fine. Mr. Cook stated that he would have to go back to the Building Department for the second shed because that was for a 12x20 with the Building Department. You have to go back to the Building Department to add the additional work and then they would have to inspect it. Commissioner Nappi asked what would happen if he built it without a building permit. Mr. Cook responded that the Building Department could have him take it down as well. This doesn't have any footings it's on cinder blocks. It's the overall construction itself. Commissioner Beattie stated we're being asked to consider it and I don't think we should consider it. Commissioner Wilson asked Mr. DaSilva why did you put the extra 16' on. Mr. DaSilva replied it was just going to be a wood storage. At first it was just going to be a roof with 2 posts but then it was a visual mess for the neighbor from their second floor to see all that wood and I closed it in. Commissioner Beattie added but we did not want this at all and when you came in for permission we gave it for a specific purpose. Chairman Zahornasky responded that we gave him permission for a 20x12 shed, never was there a mention for wood storage. That was your problem you decided to put your wood there. What's next, I have a car over here so I'm going to build a garage. It doesn't stop, I'm sorry. Mr. DaSilva asked if he could do an after the fact application for the additional work. I don't want to have to knock this thing down. Commissioner Hayes stated that my concern is that we already acted on this application, how can we revisit this. John Cook responded this was technically a violation of #09-17; it exceeded the scope of the work that was authorized in the permit. The Commission can require the removal. Commissioner Hayes continued, correct end of story, next story. Chairman Zahornasky added he asked if he could address the Commission with some mitigation. John Cook added that could take the form of a revision of #09-17 for additional work that has happened after the fact, or it could take the form of a new application which would be #10-whatever as an after the fact. Commissioner Nappi interjected what Commissioner Hayes is saying is that we would have to rescind our order to take the building down before we could consider acting upon something because we've already acted on it.

Chairman Zahornasky stated that is what he's asking us to do. He's asking us to reconsider knocking the building down. Commissioner Wilson stated I don't even see a good argument, why you put that up without knowing. The night you left here it was pretty explicit when we told you to knock it down. I thought originally we made a nice

compromise. If everyone in town starts doing this what are we wasting our time for. Chairman Zahornasky asked the Commission if they would consider this. The Commission stated no. Mr. DaSilva continued that this area has never been physically flat. There has to be some avenue for me to, maybe there are no wetlands here, get it re-flagged, something. Mr. Cook stated that the wetlands are flagged up to that particular point because at that point there was a violation in '08, which was the first shed when he went through this process. The first level of activity was work that took place and a site plan was prepared with wetlands flagged. Mr. DaSilva interjected that the violation was prior to knowing where the wetlands were. Mr. Cook continued in '08 he came in for the first shed getting permission first, that was approved by myself as Agent subject to shifting the shed 5' forward, the line was here, the Commission allowed him to create a straight line and establish this as the new wetland line back in '07. Then in '09 is when he came in for the second shed. I approved it as Agent to move the second shed out to this formal portion of the yard. The Commission is the Appeals Board of the Agent, which is myself and he appealed it to the Commission to go back to where he wanted it.

Mr. DaSilva added that this areas before I built the house and cleaned up the yard, there was no fence here. This was lawn area for this house. Then when I built the house I put the fence to here and closed my property. I built the shed and put gravel here to store whatever. This area was never flagged and never wet back here. Mr. Cook added but it would still be regulated activity because you would be within the Commission's jurisdiction. Mr. DaSilva stated so I'd be wasting money on a Soil Scientist for nothing. Mr. Cook added the original wetland which was forested was indicated by this yellow line, so the first reduction from this green line to here.

End Side B, Tape 1

Mr. Cook stated that the first work that Mr. DaSilva did was without a benefit of a permit. He had permits for the house but not for expanding the yard back in here and that's when he was first cited and it was flagged, this was forested, this was cut back to this tree limb. The Commission allowed a straight line to be established. What I'm throwing out would be if the Commission would be willing to consider it, to reforest this area, instead of putting 5 pines over here. Mr. DaSilva asked where? Mr. Cook stated here. Mr. DaSilva stated that's my vegetable area. Mr. Cook stated this was forested all the way through here, now the tree line is here and it has the tree line going all the way across. Now the tree line is down to here and over to here. I was just throwing that out. Commissioner Nappi asked is it the garden or the shed? Mr. Cook continued if the Board was willing and you were willing is to create something else that would be amicable. Mr. DaSilva replied then my garden should count. I feel like I'm being the poster child by building a little shed, and all these people build these developments without permits. Commissioner Nappi interjected; it has to do with our responsibilities for the Wetlands Commission. That's why we gave you directive to work with you to move the line and straighten the line, we gave you permission and then you extended it to 16x12. We just didn't make this order; it was because of the wetlands. That was within our jurisdiction. We cooperated with you 150%. Mr. DaSilva asked is there any other appeal process or something that I can do because I don't want to take this thing down. It's a shame that I went through the expense to build it and now I have to go through the expense to take it down? You tell me I can put brick pavers down in that area but I can't put something with a roof? Commissioner Nappi stated he would entertain the notion of a substantial fine. Mr. Cook stated that the Commission does not have the authority. The Commission has a surcharge on a revision of an application.

Chairman Zahornasky stated that is why we had so many problems years ago because the house wasn't in the right spot. That's why we came up with inspecting the footings and the whole process. I'm sorry Mr. DaSilva but I want this taken down and that's it. You knew darn well what we gave you approval for and went ahead and did whatever you wanted to. What are we supposed to do, come here and waste our time every month and everyone's going to do just what they want to do? Can't have that, that's the whole point of this Commission. You messed up, it's not my fault, it's your fault and now you'll have to live with the consequences. I'm sorry.

Commissioner Dunford stated you took a risk putting it up in the first place. Now you have to pay the piper. Mr. DaSilva stated I know but you're not giving me the opportunity to pay. Commissioner Dunford responded this Commission is not in the business of making deals after the fact when violations occur. We make a decision at the time of an application.

Mr. DaSilva stated then I'll hack it out and just leave it there.

Commissioner Nappi asked what the time for compliance is to have this structure taken down. Mr. Cook stated that the directive was from the May meeting:

Commissioner Beattie motioned to enforce recommendation #3 of John Cook's WECO Report which states "3. Remove all regulated activities and restore the areas in question." Commissioner Dunford seconded the motion.

A voice vote was taken, motion passed 4-1 with Commissioner Hayes opposing.

A letter was sent and dated July 7, 2010 asking what the status of the effort was. There was a ten day time frame for response. He did respond back and there was no timeline to make those restorations to comply with the original application which was for a 12x20 shed. One should be in order. The appeal then would go to Superior Court.

Commissioner Wilson motioned to extend PERMIT #09-17, DASILVA PROPERTY – 8 BROOKFIELD DRIVE until December 31, 2010 to remove all unauthorized regulated activities and to bring Permit #09-17 into compliance. Commissioner Beattie seconded the motion.

A voice vote was taken; motion passed unanimously.

Mr. Cook advised Mr. DaSilva that if he decides to go through the Appeals process, it would need to be filed within 15 days from the posting of the Legal Notice in the newspaper.

III-C. NEW BUSINESS

1. PERMIT-APPLICATION #10-11, SHELTON RESERVOIR #3 CAUSEWAY CULVERT – NELLS ROCK ROAD. Proposal to install cross culvert to restore or equalize flow between water bodies.

WCEO REPORT **September 9, 2010**

PERMIT-APPLICATION #10-11, SHELTON RESERVOIR #3 CAUSEWAY CULVERT – NELLS ROCK ROAD.

STATUS: 1. New Application
2. 65-day clock to decide action or hold public hearing expires November 13, 2010

COMMENTS: The application proposes to lower the level of the old reservoir #3 and excavate the causeway in order to install twin 18" HDPE culverts. The purpose is to restore and maintain better cross flow of water between the two water bodies. What has happened over the years and since the installation of the 16" water main in the mid to late 1980's is that as the southerly side water level rises it begins to backflow into one or more basements of Greystone Condominiums. Without adequate cross flow the water level actually is higher and remains at that height longer than the main body of water.

The purpose of lowering the water is to facilitate the installation to work in dry or moist condition.

COMMENTS: The site has been walked with representatives of the applicant to verify the representative areas for clean up. The proposal is very detailed and complete for a project that serves only to clean up a long sullied and abandoned piece of property.

Staff only recommends adherence to best management practices, any site specific requirements of the Connecticut DEP and lastly if any substantive changes affect the regulated activities that the applicant returns to the agency for either as a field change or formal action depending upon discovered conditions.

John Cook stated the Greystone Condominiums are here, I guess the problem area is in this cluster, the problems some of the buildings are having is that the water backs up on occasion into here and when the causeway was constructed back in the day to go to Constitution Boulevard is probably when the stone cross culverts were crushed, altered or destroyed. Sometimes this actually builds up and stays up to a higher level for a time. The pipe indication here is that they would lower the water level to excavate in Knells Rock Road, install the pipe, the water would still rise up to its normal level but now with the twin culverts as water would go over the spillway no water would have the tendency to back up here, it would lower just as quickly as it would over the spillway. The City would like to begin work this fall or winter rather than in the spring when there might be spawning areas for any small bass along the shoreline. This is a City application. Greystone approached the City, they have been having problems over the years. As this side fills up water backs up into the foundations and their basements are 5' below grade. It should have been 3' below grade in retrospect. I do not know if it will be City crew or out to bid. This does not warrant an approval, the Superintendent of Highways & Bridges was hoping for a prompt decision so that they could hopefully get this done in the fall.

Commissioner Beattie motioned to approve PERMIT-APPLICATION #10-11, SHELTON RESERVOIR #3 CAUSEWAY CILVERT – NELLS ROCK ROAD. Proposal to install cross culvert to restore or equalize flow between water bodies as long as the timeframe is strictly adhered to per John Cook's direction. Commissioner Hayes seconded the motion.

A voice vote was taken; motion passed unanimously.

III-D. COORDINATOR REPORT

- Last month I brought up Sal Perry that he would get back to me within the week as to his schedule commencing to work on Sharon Drive. He did not get back to me that week or since then with a schedule as to when he would continue. What are the suggestions the Commission would like Staff to do. The Commission advised Staff to send a certified letter to applicant stating that we have received no response as of yet, we expect a response prior to our October meeting. If no response has been received the matter will be turned over to Corporation Counsel.
- Back in April there was an encroachment within the Commission's jurisdiction on State DOT right of way and a violation notice was sent out; still waiting for a response from DOT for the Oliver Terrace issue. No application has come in and no restoration plan has come in. I have no update from DOT or the property owners. The Commission advised Staff to send a letter to DOT stating the Commission is waiting for a copy of the restoration plan that the applicant should submit.
- Stop & Shop – this went well. This was a reconstruction of the detention basin. They took a series of photographs for us and gave us those reports documenting the precondition, during and then the stabilization. They did a very good job.

VI. MINUTES

August 12, 2010 Regular Meeting

Commissioner Beattie motioned to approve the minutes of June 10, 2010. Commissioner Hayes seconded the motion.

Discussion: John Cook wanted to clarify that on page 11 of the regular minutes under Coordinator Report, the Peck property was application #10-08.

A voice vote was taken; motion passed unanimously.

V. ADJOURNMENT

Commissioner Hayes motioned to adjourn the meeting. Commissioner Beattie seconded the motion.

A voice vote was taken; motion passed unanimously.

Chairman Zahornasky adjourned the meeting at 9:06 P.M.

Respectfully submitted,

Sophia V. Belade

Sophia V. Belade
Clerk – Inland Wetlands

2 TAPES ON FILE IN TOWN CLERK'S OFFICE