

CITY OF SHELTON
INLAND WETLANDS COMMISSION
REGULAR MEETING
Thursday, May 13, 2004, Room 303, 7:00 P.M.

I. ROLL CALL:

Alvaro DaSilva, Chairman
Gary Zahornasky, Commissioner
Celeste Beattie, Commissioner
Joseph Ballaro, Commissioner
Randy Szkola, Commissioner
Neil Hayes, Commissioner

Absent: Norman Santa, Vice Chairman
Charles Wilson, Commissioner

Also Present: John Cook, Wetlands Enforcement Officer

Chairman DaSilva called the Regular meeting to order at approximately 7:10 P.M

All in attendance recited the pledge of allegiance.

II. BUSINESS MEETING

Mr. Cook: I have an item to add to the agenda that the Mayor requested to be added. It is the Bova Property.

Commissioner Ballaro moved to add the Bova Property to item #8 under NEW BUSINESS. Commissioner Zahornasky seconded the motion. All were in favor, motion passed.

A. PUBLIC COMMUNICATIONS

Chairman DaSilva asked if there is anyone who wishes to address the Commission with a non-agenda item?

No one present came forward. The public communications portion was closed.

B. OLD BUSINESS

1. PERMIT-APPLICATION #04-07, THE VISTAS AT WHITE HILLS SUBDIVISION – EAST VILLAGE ROAD/SACHEM DRIVE/SAGAMORE ROAD/WABUDA PLACE. Proposal to create a 37-lot subdivision involving road construction wetland filling, construction and grading within regulated buffers and discharge of stormwater to regulated areas.

Commissioner Szkola excused himself from the discussion because of being on the Board with the Shelton Land Trust.

Jim Swift, Civil Engineer, Landscape Architect
Attorney Dominick Thomas

Mr. Swift: The point at which we left the last meeting was concern about the detention pond at the bottom of the slope with a long distance pipe leading to it. We did not have the City Engineer's report at that point. We had meetings with John and the City Engineer after the last meeting and the City Engineer agrees with John that the cross-country, steep slope pipe is not acceptable. We now have a new proposal. Copies were given to John and the City Engineer about a week ago. The City Engineer has reviewed it and you have a letter from him before you. We took out the cross-country pipe and the pond. (Mr. Swift reviewed the layout of the old plan). What we now have is taking the piping and bucking grades so that all the pipes and drainage from the low point stays in the street all the way up to the point shown, and then we have a more typical drainage pattern where the pipe comes downs the side of lot 15 over and now the detention pond is on top of the hillside. The detention pond is now right behind lot 14. We did complete all the drainage calculations and engineering. Full sets are now on file with the City. There was another bi-product of relocating the detention pond. What I also did when I moved the pond is that I took the existing watercourse and diverted it into the detention pond. What that allows me to make the post development runoff rate at this property line less than the pre-development rate. Now I can work with the entire watershed. I believe the City Engineer has a letter that states this is acceptable.

Commissioner Ballaro: He also mentions some other things.

Mr. Swift: He also mentions that the City has an interest in not bringing the road out to East Village Rd. What they would like to see is this roadway built all the way out to Maple Ave. Joe Wabuda has retained this property (pointed out) and is not selling it to Toll Brothers. Toll Brothers has no rights to that area.

Commissioner Ballaro: Where is the trail on Wabuda Lane?

Mr. Swift: (Detailing it for the Commissioners) The City Engineers recommendation is to build the road out and to end our road at a cul-de-sac. The issue is that we have no right to build that road. The reason Joe Wabuda has decided not to sell that area is because his house is right on top of the road. We would have to demolish his house in order to build the road. What I think the City is looking at is some sort of condemnation of the Lopez side of Wabuda Pl. If that would happen, then road construction could take place and go out to Maple Ave. That has not happened yet, so we have no ability to change the proposal before the Commission. I think Bob also points out in his letter that there is no fundamental or practical difference in the drainage patterns for how water would be dealt with on this site should that happen.

Commissioner Ballaro: He (Bob Kulacz) says he endorses the management plan for the development subject to the following conditions: 1) the applicant shall revise the proposed road layout as described above. 2) The detail of the "Standard Riprap Berm" for both detention ponds shall be shown.

Atty. Thomas: We don't have any rights to change the road thing until the City condemns the property. What we have done is, pursuant to the comments from this Commission, we have readjusted the end of Wabuda Pl. so we can go which ever and whenever the City condemns.

Commissioner Ballaro: What he says then, he doesn't endorse this plan.

Chairman DaSilva: He doesn't endorse the continuation of the road but he endorses the drainage plan.

Atty. Thomas: That's a Planning & Zoning issue. It's not a P&Z issue; the City has to condemn it.

Commissioner Ballaro: Quoting from the City Engineer's letter again: "I endorse the stormwater management plan for this development subject to the following conditions", that the road be changed.

Mr. Swift: He is also stating that this recommend change to the road layout will not require the stormwater management plan to be significantly altered.

Atty. Thomas: To be honest, this is something that this Commission has no jurisdiction over.

Commissioner Ballaro: I disagree with you. The stormwater? Why did he put that condition at the bottom of the page?

Atty. Thomas: I have no idea. He wants the road to go out. We don't have the ability and it is not a wetland issue. He has endorsed it and said it is the same either way. If he condemns it, your Commission has already addressed the issue as far as it can go by telling us to put this in such a way that we would probably be able to go whichever way you want and miss the wetlands, the bulk of the wetlands. We've done that. Where exactly the town is going to condemn, where those feet are located, we have no idea. We have put on the record that the Wabuda's, if they were not to condemn, are willing to dedicate a 50' right of way. But, the town wishes it done now so that this doesn't have to go through. It would be absurd to have this subdivision built with two dead ends.

Commissioner Beattie: There is a limit of the number of houses you can put on a dead end.

Atty. Thomas: That has vastly been exceeded at this point, by Village Dr.

Mr. Swift: There are 74 lots accessing one point.

Atty. Thomas: Village Dr. was supposed to go out to Leavenworth at one time. I don't know the full history of it, but it never did.

Commissioner Beattie: You're saying that two wrongs it going to make it right?

Atty. Thomas: No, we have proposed going out. It is not us, we're not doing anything. Our traffic studies have shown that this is a better line of site than at Wabuda Place. It is the City that wants it done that way. It is an engineering issue. Mr. Kulacz's letter said that it has no impact on the

wetlands, on the stormwater thing. You addressed it early on by making us re-adjust the road by lot 14.

Commissioner Zahornasky: Where does he want to end up on lot 4?

Atty. Thomas: There is a good chance that Toll Brothers will end the road by lot 4. In which case, some of the open space will have to go. Toll Brothers does not want to have a situation where the lots are treated as isolated and very long driveway lots. They haven't made a decision yet but may take the road up farther.

Commissioner Zahornasky: What I am saying is, if we don't approve the upper crossing, make you stop the road before there, and then by the time you get through all this, and the City does condemn the part on Wabuda Pl, and you can connect the road. In the meantime, we are not going to approve you going across that crossing and going out and connect it. Or give me something that says you are not going to connect up top before....

Mr. Swift: There is no crossing. (The wetlands were pointed out). There is no wetland disturbance.

Commissioner Zahornasky: Ok, it is a buffer situation.

Chairman DaSilva: Let's get something straight here. We cannot deal with the issue of extension of the road. We can deal with the issue of crossing the buffer of the wetlands. What exactly is the issue of Wabuda Place? What is the problem? Is the City not willing to condemn the property on the Wasilewski side?

Atty. Thomas: According to Bob, they are. They haven't come to us and said, we've eminent domain. Remember, eminent is instantaneous. They haven't come to us and said we've condemned this, revise your plans. We can't do this right now. They wouldn't make this lady move (the one at the corner by Wabuda Place) and they certainly make the Wabuda's move. If you go solely on the Wabuda's side you would have to tear down Joe and Loraine's house. The first 500' is a City road but you do not have the 50' right of way. If you went 25' from center, you would be in their living room.

Commissioner Zahornasky: Do the Wabuda's and the Wasilewski's have a feud going on? It seems that Mr. Wabuda wants you to take the other guy's property for the road.

Atty. Thomas: No, the Wabuda's offered to dedicate a 50' right of way.

Commissioner Zahornasky: You are not going to take the road out after it is connected. If they are selling the property off to you, then they have to give a little too.

Atty. Thomas: Like move?

Commissioner Zahornasky: People do it all the time, don't they?

Atty. Thomas: I don't know how else to put this, but, it is not a wetlands issue.

Mr. Cook: In the second paragraph of my comments (WCEO Report), I stated: In so much as the City Engineer has advised against the full extension of Sachem Drive to East Village Rd. and require the extension of Wabuda Pl. and if the P&Z concurs with his position, staff would recommend that the applicant revise the plan to reduce the regulated activities due to road construction in the vicinity of lots 4,5 & 37. How much that would actually be reduced is unknown yet because if for instance, the road does go out Wabuda Place, and there is no road going out to E. Village Rd, there is going to be less road construction up in that corner of the property. The disturbance will have changed and they will have to come back to the Commission.

Atty. Thomas: We can't do that now. They have told us over and over again that they are going to take a 50' right of way by eminent domain. When they do that, at that point, they can go to the developer and say they want the access point that way. They haven't done that.

Chairman DaSilva: There's no communication between you guys and the City where they are working along you to get that done, or is there an issue of who is going to pay for that condemnation?

Atty. Thomas: They never discussed that. They discussed that they expected Toll to pay for the road, and Toll hasn't raised any problems with that. There has been communications and we have gone as far as we can go, which is to say, we don't have a problem having two exits.

Chairman DaSilva: So you are willing to eliminate that entrance up there if the City condemns the property down below and you will bring the road out?

Atty. Thomas: We will probably be told to do that. Toll's position is, they are not in favor of 1000' driveways. They want to make the lots accessible. Whether there are driveways or anything, there is going to be disturbance there. If it going to be a cul-de-sac, then they could approve a 24' wide road.

Mr. Swift: We are certainly aware that if changes like that will happen, and there are changes to the application that we will have to come back to the Commission. You can only act on the proposal before you.

Chairman DaSilva: Let's go back and focus on the drainage, which was the biggest issue that we had. Let's look at the retention basin and have the Commission see what comments they have.

Commissioner Hayes: In the original solution, the basin is twice the size?

Mr. Swift: Yes. The reason it is twice the size is, in the original design, all I did was to analyze the point in the stream at which all the flows hit at one time. I didn't have to size this large enough to meet the pre and post flows where it crossed the property line here, for two reasons. One, I examined thoroughly this watercourse. There were increased water flows where it crossed our property line. By the time it got down here, once you take into account the whole watershed, our post construction was less than our pre-construction. Because the Land Trust is very concerned about this and looking very closely, I felt that was not acceptable. When we did the new plan, we went the extra couple of miles. We looked at all the hydrology and felt the post construction flow when it crossed our line into the Land Trust had to be less than the pre-construction. That is the reason for the size of the pond. We moved the pond away from the Land Trust property. It is on the lot but they have plenty of room for the septic system and plantings. It is a massively oversized lot.

Atty. Thomas: Lot 15 will have the access way and Mr. Kulacz was satisfied with that. It is a much shorter access. Toll Brothers went the extra cost because the pipes are somewhere between China and Hawaii in depth.

Commissioner Zahornasky: What about the difference in slopes now? I know we had a problem with the depth on the bottom one, what is the relative comparison now?

Mr. Swift: The slopes are backed off to nothing steeper than standard 2 on 1 for the entire pond.

Commissioner Ballaro: You mentioned earlier about a higher velocity, was that on the other plan?

Mr. Swift: Yes that was on the other plan. There is about a 10% increase in velocity.

Commissioner Ballaro: How does this plan compare?

Mr. Swift: As the peak flows are reduced, the velocity is reduced. If I reduce the post development flow to less than the pre-development flow, I also reduce the velocity. The velocities are less, same as the peak flows.

Commissioner Ballaro: So it actually the same as the other plan?

Mr. Swift: No, this pond has a much larger capacity and a much larger choked down flow.

Commissioner Hayes: What is the method of release?

Mr. Swift: The method of release is a weir section in concrete.

Chairman DaSilva: Is it going to be wet all the time, with the brook connected to it? The reason I ask is, being right in the back of those two lots you are going to have to put a fence around it.

Mr. Swift: It is not to be wet all the time. What I like to do in a detention pond is divide it in two sections, with a standard riprap berm, so that when you get a light summer shower, it does nothing but fill up the front 4-bay of the detention pond until it has a chance to bleed through the berm. There will not be permanent standing water.

Chairman DaSilva: For safety, you might have plenty of water for a few days and there should be concern if a child were to fall in.

Mr. Swift: We certainly don't have any objection for fencing.

Chairman DaSilva: What other questions are there and is the Commission satisfied with this new plan as far as the drainage issue? That was the biggest concern we had.

Commissioner Beattie: Is this the only detention pond you are going to have on this entire project?

Mr. Swift: There are two. The other is by lot 7. We have added a couple of small retention ponds by lots 19 and 21. Even though I analyzed the discharge at the end of Village Dr., I was still concerned about the houses below, so I added the retention basins.

Chairman DaSilva: Are you just bringing the water from the roofs, streets and gutters, or are you also picking up yard water?

Mr. Swift: On lot #21, the basin will take some roof drainage and driveway drainage. We added a 4x4 galley system and were added to the lower houses. On lot #19, it will only take the roof drainage.

Commissioner Hayes: Who maintains the pond after the developer is long gone?

Mr. Swift: The City will maintain the ponds. That is standard.

Chairman DaSilva: Are we done with this issue, because I want to go back to the crossing where we talked about the problem with neighbor who has an issue with the water coming down. Did we finalize the plan?

Mr. Cook: I had one question. Just for the record, it was discussed at our meeting with the City Engineer, you stated that at the ponds the slopes are shallower, but it is a full excavation and not an embankment, is that correct?

Mr. Swift: That is correct. We took care to try and get the basin excavated into the ground so we are depending on downhill berms to protect. There is an exception; there is a berm, on the lower left.

Chairman DaSilva: I want to go over the crossing by lot #27. It was discussed at the last meeting regarding allowing the surface water. The make up of the soil is all clay, what is the method of crossing that you developed.

Mr. Swift: (Showing and detailing the alternate drain plan). John felt it was important to put water back into the system, so we are going connect from one side of the road to the other with 4" pvc connecting pipes. There are three of them. Hydrology then takes over. Surface water is still conveyed away, through the swale into a catch basin. Normal low flows that manage to get into the trench drain, what happens is, the water from that trench drain enters the pipe, travels across the side, and we have what's called the discharge trench on this side. When ground water fills up and goes through the pipe and hits this trench, finds its own level and comes up and re-hydrates the wetland. The City Engineer is satisfied with the method.

Mr. Cook: I am satisfied. The only thing I was wondering is with the 4" pvc, with only 2' of cover on the down slope side, is there another pipe material that you can use to provide that cross-flow still with a 4" pipe, with either an SDR-35, which is a heavier gauge pipe, or an iron sewer pipe?

They agreed on the heavier pipe.

Commissioner Zahornasky: I was concerned about the person down below that gets all the water, are you going to do anything for him?

Mr. Swift: Mr. Opitz is here and he may wish to address the Commission. We are in a status quo from what happened at the last meeting. The street crossing here and the swale will pick up larger storms and heavy rainfalls. That kind of surface water is going to be interrupted by the street we brought across. Any impact on his house from surface runoff is going to be pretty dramatically reduced by this plan. We are going to deed a strip of land to Mr. Opitz that covers both areas of wetland impact or where wetland approaches his property. This is so he can put in whatever construction is necessary to further protect his property.

Chairman DaSilva: (To Mr. Opitz) Are you satisfied with that solution?

Mr. Opitz: Ideally, I would rather have them do it but I understand that they are approaching the 5000 sq. ft. limit to have to go to the Army Corps of Engineers. I am satisfied as long as I have some indication from the Wetlands Commission that you will work with me in dealing with this.

Chairman DaSilva: I, personally, don't see any problems.

Mr. Opitz: What I want to see there, after being there 22 years, don't underestimate the force of the water, is I want to put in a swale.

Chairman DaSilva: That is what we had discussed before and I understand their concern about getting to the 5000 sq. ft. of disturbance. I just wanted to make sure you were satisfied.

Mr. Opitz: I just don't want to run into a roadblock when I need to do this.

Chairman DaSilva: It is the same solution that we were talking to them about doing there anyway.

Commissioner Ballaro: I don't think the Commission is going to want to see you draining the wetlands.

Mr. Opitz: My house is draining the wetlands. I have pictures. All I want to do is divert the water. I don't want to drain it.

Chairman DaSilva: Going back to the detention basin, we want to see details; cross-sections, spill-ways, the whole thing.

Mr. Swift: There are those details that are in the plans now. I could go over them if you want. We are available to John and the City Engineer if needed.

Chairman DaSilva: To go back to the issue of the road. Let me say this. The Commission can, obviously, decide not to allow the road to go through because it is in the buffer, so you do have some control. Be careful in making your decision if that is the way you choose to go, that you are making the decision based on the comments from the City Engineer saying that he wants the road not to extend to E. Village Rd. and therefore you are going to force the applicant to open up another road and give them another crossing that is actually crossing a wetland, and not a buffer. The impact is actually less where he is proposing the road now versus where the City or we would request them to put it. If you are going to make a motion to deny, be careful how you make that motion. I am not saying you shouldn't, but be careful how you make that motion. Do you see what I am pointing out?

Commissioner Ballaro: Plain as day.

Chairman DaSilva: We do not deal with issues as far as extending roads or not extending roads, our jurisdiction is the impact on the wetlands and we need to stay consistent on that.

Commissioner Zahornasky: On the lower detention, run that by me again where it is excavated out. You have a section of berm that could be the only part that could possibly fail, because that is built up and that would collapse. To say that it is excavated out is a little misleading, I think. It still has a berm that could fail and would impact the wetlands. This still has an element of risk. I would like John to take a good look at.

Mr. Swift: I think we'd have to leave it at that.

Atty. Thomas: We have proposed engineering supervision during the development of the berm.

Mr. Swift: We have volunteered a civil engineering inspection of the construction of the berm and certification of the berm by a civil engineer.

Commissioner Ballaro: Where is the concrete control structure going to be?

Mr. Swift: Just inside the pond with a pipe leading out of the pond into the brook. Like all ponds, it needs an emergency overflow. That is about 5-6' away, which is a riprap channel over the berm. If the capacity of the pipe and the outlet structure is reached, it is an emergency outflow over this riprap that flows over the berm, which protects the berm.

Commissioner Ballaro: Do you have a cross-section with you?

Mr. Swift: Yes. (Shown and detailed)

Chairman DaSilva: If you had concerns with the berm you could have it encased in concrete. Ok, on to the Land Trust people.

Mary Beth Banks, representing Shelton Land Conservation Trust

Ms. Banks: Our land is below and adjacent to this property running along Leavenworth Rd. up to Taemore. We hired Don Blue, who is a professional engineer to review this project. He has been in contact with Mr. Swift and he has a copy of this letter. I will give him another one plus a map and I will also give one to the Commission. The review points a few main items and I will hit on a few. The first is: *A) The summary data found on the first 2 pages of the report has to be reworked in order for the conclusion to be drawn that there is no increase in stormwater runoff to the*

Shelton Land Trust property located at the lower end of the proposed subdivision to the southeast. B) There has to be more tabular data added to the summary data that does exist to a more complete summary of the discharges from the various sheds for both the existing and proposed conditions. C) The organization of the report needs revisiting so as to be able to properly follow the work accomplished to arrive whether or not there has been an increase in discharge throughout the site. Then he gives specific comments on the plans and he says for instance, the under drain system may be viewed on sheet 3 of 13. The entrance to the system and the exit from the system at ground level are also susceptible to the blockage from material carried on the surface. There should be more technic devices placed at the entry to all detention and sediment basins. This means basins a, b, & c as shown on plans 2, 3 & 4. Highway grates for emergency water discharge are not acceptable. This is because rising storm water in the basin carries all the leaves, twigs, etc. to the grates much the same as any one has witnessed the clog highway grates. The structure is to be made higher so the vertical ports may be introduced in two or three of the walls to carry any of the emergency discharge. In conclusion, there are a number of items to be revisited in both the plan as well as the drainage report as discussed above before the submittal may be considered at an acceptable level for a project of this nature in terms of the stormwater management quality. He and Jim have discussed this at length.

Chairman DaSilva: It seems you have two engineers disagreeing on methodology.

Ms. Bank: I don't think they disagree, they worked it out and I think Jim and Don realize more work has to be done.

Chairman DaSilva: Jim, do you want to address that?

Mr. Swift: The one that jumped right out at me was the statement that Don isn't sure, and to me the issue becomes, is the post development runoff rate less than the pre-development runoff rate? Don got this Monday and he did not have time to get all the information and we spoke a little today to clear up some of those questions and we did not get to all of them because he did not have time to see what was actually contained. The Commission has the letter and they can read it for themselves. At some point in the technical part of the letter he questions whether this watershed (D, sub B) was added to D, sub A, when it was discharged down to the property line. If you don't know that, there is certainly is no way to tell if the post development rate is less than the pre-development rate. I can show you on the drainage report how they were added in but it would like squiggly lines to you, so I won't bother. The answer to that question, if Don and I had more time together, is I think he would have been satisfied.

Chairman DaSilva: So that we don't spend all evening here with engineering verbage, what I will do is to have you and Don continue with your discussion and come to an agreement.

Atty. Thomas: Your City Engineer has already agreed that there is no problem with the stormwater management. You can make that as a condition of approval that we will have a continuing dialog with their engineer.

Chairman DaSilva: I don't have any problem with a continuing dialog and I think Jim is correct that they didn't have enough time to go through everything. The only disagreement as far as the vortex units at the entrance to the basins; I personally disagree with that because that become a much harder maintenance issue for the City. I know the City can't even clean catch basins, never mind getting into those units to clean them. We have never requested that type of unit in an area like this and I think that the basin does a much better job. You guys continue your discussions and we will ask the City Engineer if there is any difference between the two of you and give his opinion.

Mr. Swift: If the Commission is so inclined to make a condition of approval that the post-development runoff rate to the Land Trust be less than the pre-development runoff rate? That way we can work it out.

Chairman DaSilva: I don't see a problem with that.

Tape 1, Side B

Atty. Thomas: The area that it overlaps is near drainage. On the issue of stormwater drainage there is that continuing jurisdiction as we flow through Planning & Zoning.

Joe Welsh, member of Land Trust

Mr. Welsh: Detention and retention ponds; has the Commission ever suggested using various wetland plants?

Chairman DaSilva: John Cook will request that and we do that all the time.

Mr. Welsh: Where do you usually get them?

Chairman DaSilva: I couldn't tell you but John Cook would have that information.

Vince O'Brien, 153 Village Dr.

Mr. O'Brien: My main concern is the drainage because there is a lot of overlaying runoff that comes down through my property as well as my neighbors. My concern is the amount of wetland that is going to a private owner in terms of potential disputes or any wetlands that may be covered and later on with additional runoff coming over to me.

Chairman DaSilva: We now have signs that will be posted in the back of the lot along the border of the wetland stating that no disturbance is to take place on any wetlands. No homeowner has permission to get into that wetland to do any filling or anything.

Mr. O'Brien: That is the homeowner's property, right?

Chairman DaSilva: Right, the homeowner cannot get into that wetland.

Mr. O'Brien: Is there anything proposed above me as far as a detention basin? I am concerned with this runoff. Right now it is terrible as it is and it will get worse.

Chairman DaSilva: Is there any more protection you can give him, Jim?

Mr. Swift: There is, by re-diverting water but I don't want to get into the same problem with depriving things of water. I examined very carefully the watershed that contributes to it to maintain the status quo.

Mr. O'Brien: I picture worse here.

Chairman DaSilva: Right, you are at the bottom of a wetland.

Mr. O'Brien: That is my main concern with that portion. Any guarantees that if the disturbance does make the situation worse, is there any thought of escrow being held for any damage?

Chairman DaSilva: I believe that it is the feeling of this Commission that we would be requesting because of a previous application that we had problems with a few years ago with topography similar to this, that we would be requesting Planning & Zoning increase the bond by a specific amount specifically to deal with any wetland issues that may occur.

Commissioner Zahornasky: Wetlands Commission can't request a bond; it has to be done at Planning & Zoning.

Chairman DaSilva: From my perspective they are looking at what is being done and they are not doing anything in those wetlands that are behind your house. In looking at the topography with the house on lot #21 and the way he has the drainage coming down, it drains down to lot #19. That shouldn't affect you. I think where you are getting most of your water is right from the wetlands and they are not touching that.

Mr. O'Brien: I was just concerned that they would add to it.

Chairman DaSilva: They are not draining any more water into that wetland that should affect you. As a matter of fact at the intersection, they are picking up some water on the shoulder of the road. Where is that water going?

Mr. Swift: It comes into a pipe that exists. We are upgrading the inlet.

Commissioner Zahornasky: Just like your neighbor, Mr. Opitz, we would entertain an application, if you so desire, on your lot, if you want to put in some curtain drains or something.

Mr. Cook: In the last paragraph of my report, I want to comment. The previous 3 paragraphs were covered. This goes along with Mr. Welsh's questions about detention basins and plantings. *At this time staff would recommend that the two sizeable detention basins have landscaping plans prepared to provide mitigation plantings and stormwater basin plantings to maximize their value beyond the engineering component of their design.*

Chairman DaSilva: Anything else?

Mr. Cook: There is a petition for a public hearing, which is item #3 in my report. The petition was filed and is included in the Commissioner's packets. It was received April 11. As the Commission recalls, within the regulations there is a clause that deals with establishing public interest for a public hearing. It would appear that the petition was not filed in a timely fashion. Attorney Thomas can respond.

Atty. Thomas: According to State Statute 22A-42A, sub section C, sub 1, which says that *“the Inlands Wetlands Agency shall not hold a public hearing on such application unless the Inland Wetlands Agency determines that the proposed activity may have a significant impact on wetlands or watercourses. A petition signed by at least 25 persons who are 18 years of age or older and who reside in the municipality in which the regulated activities are proposed; requesting hearing is filed with the Agency not later than 14 days after the receipt of such application.* You received the application February 11, 2004, in which the application was accepted. 14 days would have been February 25.

Chairman DaSilva: This was received in May?

Mr. Cook: Correct.

Commissioner Ballaro: Can we ask for 36 more days on this extension?

Mr. Cook: Correct.

Commissioner Beattie: When would we hear anything more as far as the change?

Chairman DaSilva: The only thing that needs to be resolved is the Land Trust engineering questions and waiting to see if the City Engineer agrees with all the details. If the Commission decides to approve the application today, it would be subject to that.

Commissioner Beattie: I was referring to the road and we were concerned about the buffer zone.

Chairman DaSilva: That you can decide this evening. Do not get caught making decisions if the road should be extended or not. It is not our decision.

Atty. Thomas: The law is quite clear. It is an upland area. There is not even a shred of evidence that has presented in the four times we have been here, that it impacts the wetlands. The statute is clear, the appellate courts have actually gotten angry in some of their decisions about the fact that upland areas are being regulated more than wetland areas. They are saying you have to have some evidence. There is none. Even if you did two 12' driveways would end up going through there, we would be glad, and we would hope this Commission tells P&Z, if this goes through, and it may not be 30 or 45 days, they still have to do an appraisal of the property plus a lot of other steps that have to be taken. The first thing you don't do is eminent domain. The first thing you do is sit down with Mr. Wasilewski, Ms. Lopez and the Wabuda's and attempt to purchase it. We would have no problem with the 24' road as you went back there, you could reduce the impact from that. We can't make that decision. We are the applicant. P&Z and the engineering dept. can say, if this goes through, it's not a problem.

Chairman DaSilva: If P&Z goes along with the recommendation of the City Engineer, they can deny the application. Let's not do the job for P&Z. If you have other concerns with the application regarding wetlands, then address them.

Commissioner Ballaro made a motion to approve application #04-07 with the standard conditions that the City Engineer reviews the documents from the Land Trust Engineer and the applicant's engineer. There needs to be a landscaping plan for the detention areas. The pipe underneath the crossing is to be “schedule 80”, instead of the 4” pvc. The post-development runoff will be less than the pre-development runoff in regards to the area going to the Land Trust property. Property will be deeded to Mr. Opitz as noted on the plan. The applicant will provide supervision for all facets of the detention basin construction. This Commission requests that Planning & Zoning Commission increase the bond for public improvements. The City Engineer will determine the amount of the increase of the bond. Commissioner Zahornasky seconded the motion. All were in favor, motion passed.

Commissioner Szkola returned to the meeting.

2. PERMIT-APPLICATION #04-12, CAPPIELLO ESTATES SEC. 2 – KNEEN STREET.
Proposal to create an 11-lot subdivision involving watercourse elimination.

Hem Khone, Professional Engineer

Mr. Khone: This is an 11-lot subdivision. We are going to close the existing brook and pipe it to the existing catch basin. At the last meeting the Commissioners asked for the City Engineer's comments regarding the drainage downstream and impact on flooding. I have a letter from him and he has 3 concerns. He wanted the detention facility designed for 100 year and I did it for a 25 year storm. The second concern was that I had detained the drainage into the 48” pipe and his comment was that it was not acceptable. The third thing was he did not like to see the drainage facility in the town right of way. I did not have time to modify the plans. I do have the

drainage calculations for the Commissioners. In this proposal I am proposing to eliminate the 48" detention facility and have a 15" pipe to drain the road. The second thing is to take the detention facility out of the town right of way and put it (?). I am proposing for a 100-year event is to put it into the galleys for each lot. To handle the downstream flooding, the detention system designed for 100 year, I have increased 100% more. It comes out to 30 linear feet galley for each lot, I have doubled that to 60 linear feet for each lot.

Chairman DaSilva: You are putting galleys in each lot to pick up water from the road, those including water from the lots?

Mr. Khone: What I will do is pick up from the driveway and from the houses. I am distributing some of the road water and up above there is some open space, which flows down, and I will also capture that. The net decrease will be into the town system. I do have to make sure that the City Engineer agrees.

Chairman DaSilva: It appears that you have some work to do with the City Engineer. Do we still have time on the clock on this one?

Mr. Cook: The clock expires May 15.

Chairman DaSilva: Either you request an extension or we will deny without prejudice so you will have time to work with the City Engineer and make your corrections and then come back to us next month.

Mr. Khone: I will request an extension.

Mr. Cook: You can request for any time up to 65 days.

Chairman DaSilva: You need to write the request and give it to John requesting the 65 day extension.

Mr. Cook: You can either fax or e-mail it to the office.

Commissioner Szkola made a motion to grant a 65-day extension for permit-application #04-12, seconded by Commissioner Zahornasky. All were in favor, motion passed.

3. PERMIT-APPLICATION #04-13, KNAUF PROPERTY – 561 BRIDGEPORT AVENUE.
Proposal to create a site platform for office building construction involving wetland excavation and filling.

Wayne Jacobsen, Professional Engineer
Russ Slayback

Mr. Jacobsen: We were here last month and distributed a letter in responding to questions the Commission had asked at the prior meeting. We went through the items one at a time and we had thought the Commission was ready to act on the application. John had just received some new information and he wanted time to review it. I am at your disposal for what you require.

Mr. Cook: I do appreciate the Commission extending the application to review the final material. Reading from the WCEO Comments*: At the April meeting the applicant provided a detailed analysis of the hydro geologic condition of the site. The geotechnical expert referred to the importance of controlled blasting to execute the work with limited impact to regulated resources. The applicant agreed to provide onsite monitoring to assure adherence to the intent of any authorizations. With this understanding staff would recommend the Commission condition the applicant retain the service of the geotechnical firm to monitor the blasting work with the goal to maintain the limited impacts as detailed in Mr. Slayback's April presentation. The need to provide a bond to cover the impact to the wetland in the event it is dried up due to blasting was also entered into the record. Other components of the plan staff believes were addressed to the Commission satisfaction at the April meeting.

Commissioner Ballaro: Where did Mr. Slayback come from? Who hired him?

Commissioner Zahornasky: The applicant hired him.

Mr. Jacobsen: Mr. Slayback is here this evening.

Mr. Slayback: I do have extra copies of my report. I think the primary concern this Commission was concerned about was whether blasting to create the platform for parking and the pedestal for the building will impact the wetland corridor. The wetland corridor is a floodplain of an intermittent stream. It has acquired wetland characteristics of the soils because of the periodic wetting, which

stays pretty wet in the spring season, mostly. The bulk of my testimony was properly constructed blasting should not fracture the rock more than 10' from any drill hole that is drilled for the blasting. We discussed the project blasting with the contractor, Brennan Construction, and they fully understand the delicacy of the project and have agreed that a blasting monitoring consultant that I have worked with in the past, Doug Sims, be used for sensitive blasting. The one issue we left unresolved at the last meeting was how does the Commission assure itself that the blasting is conducted in the appropriate manner that has the appropriate controls. I am suggesting that an appropriate condition of an approval might be that you require a pre-construction meeting with the Fire Marshal (responsible for issuing the blasting permits), the wetlands enforcement officer, the zoning enforcement officer, the excavation contractor, the blaster (maybe a direct employee of Brennan, or an outside contractor if Brennan is not doing it directly), and the blast monitoring consultant (Doug Sims, Oxford). The idea for the pre-construction meeting is to set the ground rules, establish what the reporting will be and to make sure that everything is done you want it done.

Commissioner Szkola: Can we set bond on this?

Chairman DaSilva: We have done it in the past application where we request the City Engineer increase the bond that they would put in for Planning & Zoning by a specific amount that he feels necessary to deal with the wetlands issue.

Commissioner Szkola: That it would only be released if we sign off on it. Can we make that stipulation?

Mr. Cook: There are certain components that are wetland dependent and we have done that.

Mr. Jacobsen: One other request of the Commission was to do test holes. There was a way that we traversed the site and came up to access the area. A blast rig is a machine that is a lot more flexible in moving across the terrain than a backhoe. We are confident that if we can get a backhoe in there, we can get a blaster in there.

Commissioner Szkola made a motion to approve application #04-13, with the understanding that the pre-construction meeting is to be held with the following participants: Fire Marshal (responsible for issuing the blasting permits), the wetlands enforcement officer, the zoning enforcement officer, the excavation contractor, the blaster (maybe a direct employee of Brennan, or an outside contractor if Brennan is not doing it directly), and the blast monitoring consultant (Doug Sims, Oxford). We do ask the City Engineer to increase the bond amount to cover the cost of wetland issues and that the bond is only released after being signed off by the Commission's authority. There is to be a blasting consultant present during the blasting. Commissioner Zahornasky seconded the motion. All were in favor, motion passed.

Commissioner Beattie: Just refresh my memory; on the discharge of water into Wells Hollow, have we received all the specifications?

Mr. Cook: At the last meeting there were photographs submitted by the applicant of the outflow area of Wells Hollow Brook. The photos demonstrated that the discharge point was solid in its integrity.

C. NEW BUSINESS

1. PERMIT-APPLICATION #04-17, SHELTON VETERINARY CENTER – 560 HUNTINGTON STREET. Proposal to create a veterinary center involving discharge of stormwater to a regulated area.

Jim Swift, Civil Engineer.

Mr. Swift: There was a preliminary application for this. We have a small building with parking in the back. There is a low-keyed driveway coming down. On Huntington St., for about 400-500 yards, there is no drainage on the street. All the water flows down the gutter until it goes to the brook. I am not increasing the runoff rate in any significant way. I still have to discharge the water in some way. We suggested putting in a couple of basins and an outflow, and would the City find this desirable. Bob Kulacz said yes. The documents show the discharge easement and drainage into the street is going to be a City system. Dominick has submitted the paperwork to Aquarion and it is making its way through their process. He has every assurance from Aquarion that they will grant the easement.

Chairman DaSilva: That wetland doesn't feed the watershed?

Mr. Swift: It is below the reservoir, it is not in the watershed.

Commissioner Ballaro: Is the shaded area the wetland?

Mr. Swift: Yes.

Commissioner Zahornasky made a motion to approve application #04-17 with the conditions that there is approval from the City Engineer and from Aquarion. Commissioner Ballaro seconded the motion. All were in favor, motion passed.

2. PERMIT-APPLICATION #04-18, PAGLIARO PROPERTY – 40 BIRCHBANK ROAD.

Proposal to excavate a retaining wall and grade adjacent to the Housatonic River and within its floodplain. Accept for review.

Jim Swift, Landscape Architect, Civil Engineer

Mr. Swift: 40 Birchbank Rd. is a house on the river, past Indian Well State Park. We do have frontage on the Housatonic River and this is a section where all the homeowners have combined to build a wall at the edge of the waterline. All the homes are above the 100-year flood line by virtue of some walls in front of their houses. They all have lawn areas and a wall that separates down into the water line. The applicant would like to remove a section of wall and establish a little bit of a beach. That was done not too long ago by a homeowner a few houses away. It seemed to work out very well for them. The issue of wetlands was discussed and we did send a soil scientist out to the site and found a little bit of wetlands in the lawn area. I have some photographs to give the Commission a better idea of what is going on there. (The photos were detailed for the Commissioners). If we don't remove it pretty soon, we won't have to. As you can see it will collapse and there are massive cracks. We will avoid the wetlands all together. We will remove the wall and the earth in the location around it.

Chairman DaSilva: Was that your concern was filling the wetland in the lawn?

Mr. Swift: Yes, if the Commission would see fit to consider that tonight, we would appreciate it.

Commissioner Ballaro: But you are also here for the beach.

Mr. Swift: Yes. We have actual elevations established and surveyed at the waterline. In removing the wall we show our section to reinforce the wall for erosion by putting in gabions in on either side.

Chairman DaSilva: That was my question, how are you going to support the other walls? So you are going to put gabions there.

Mr. Swift: The gabions are only for erosion. The walls do end at the property line and there is no tie that we can see.

Chairman DaSilva: I am not saying you should tie them together but you need something there so that the water erosion and waves will not begin to dig into the sides of the walls.

Commissioner Szkola: My concern is the water coming downstream gets behind the wall of the neighbor downstream and we hear about it in a year from now.

Mr. Swift: That is why I paid particular attention and I went down two houses to see how they had done it. It has been 4 years since that was done and they don't have anything except a little riprap on either side. The reason that there is not much danger here is because the velocity is extremely low. The river is very wide.

Mr. Cook: (From the WCEO Report*)I had recommended receipt for review as the work is within the flood plain and to recommend referral to the City Engineer. Work is also within 500' of Seymour and warrants a referral by the City and by the applicant to the appropriate authorities. The overall concept of the idea may be considered a benefit over the retaining wall concept used over the decades along this stretch of the river and it will make it easier to physically get to the water edge. However, there are several questions regarding the proposal. 1)The regulated area boundary is at the toe of the slope between the floodplain terrace and the sharp slopes and walls of the dwelling and neighbors' parcels. This is consistent with the second neighboring parcel known as 39 Birchbank Rd. The application states the area proposed for excavation is not a regulated area but where is the other half of the boundary. There was a wetland boundary flag at the toe of the slope on #40. Earlier this year there was an application that came in for #39. They also had flagged this contour as the wetlands. They indicated it was regulated wetlands from the toe of the slope right to the edge of the water. I had a discussion with Mr. Swift before the meeting and he can clarify some of that.

Chairman DaSilva: At one point before those walls were built there might have been wetlands, but that is all fill. So how can that be an original wetland.

Mr. Cook: The report from the other soil scientist said it a flood-plain wetland. It is a Pootatuck soil wetland; which is a well-drained wetland. It is not a fill condition; it is actually a flood-plain wetland. Mr. Swift had disagreed with their soil scientist, and correct me if I'm wrong, that the soil scientist did flag everything from the toe of that wall towards the river as wetlands. Is that what we were talking about at the beginning of the meeting?

Mr. Swift: She placed 3 flags. I am not questioning that there may be an area of natural undisturbed wetlands soils on the property. What I am questioning is this wetland soil can't possibly keep on going, which this is filled or back-filled.

Commissioner Szkola: That doesn't bother me. He is coming in with an application and these other people come in an fill without an application.

Mr. Cook: The one you were talking about earlier where they removed the wall may deserve further scrutiny because there has not been an application before this Commission to remove any walls in the last 4 years.

Commissioner Szkola: We as a Commission should sit down and develop a policy for this area and mail a letter to everyone explaining the situation.

Mr. Cook: I agree that overall the concept is a good one. It is just it was a situation with 2 different soil scientists with two different delineations.

Chairman DaSilva: Even if that is a wetland, it is a backyard and has no wetland function. It is only by soil type.

Commissioner Ballaro: What is the slope in the yard from the water to where you are going out?

Mr. Swift: There is a high point by the wall that comes up slightly and pitches down again into this low area to elevation 27 and it pitches back up again to the base of the wall. It starts at the river actually high, slopes down into a slight valley here.

Commissioner Ballaro: So you are not actually going to touch the river at grade? The water will be lower than grade?

Chairman DaSilva: The water is at 24.9 and the where the stairs are it is 24. So it begins at the water line and slopes up to 26'.

Mr. Cook: Lastly, as far as the gabions. Since it is in the flood plain and you are saying it is not in a high flow area in terms of velocities, but has there been any considerations in creating an eddy as a result of that flow coming down, where you get may get deposits or debris.

Mr. Cook: The possibility of that would be on the up-stream side where the eddy would come back around in. I examined downstream very carefully to see if that was happening. They had a beach condition where the riprap was stable and the beach was very consistent. I didn't a build-up of sand in that area. It is due to the slow velocity.

Tape 2 Side A
Brett Haywood, 49 Audubon Lane.

Mr. Haywood: I am the husband and brother-in-law of the owners of the property. To give an indication of the timeframe that this fill has been in there; we took possession of the property, stanchions that were originally made in 1926 held up the dock. The fill has been there a long time. As far as the neighbors wall is concerned, it is one of those walls that has a pitch to it and in our discussions with our neighbor and common sense says us putting in the gabions is actually going to help support his wall.

Mr. Cook: Is that upstream or downstream?

Mr. Haywood: It is the downstream neighbor.

Commissioner Szkola: My only concern is 2 years from now if people come in and say there are problems. I don't know how to alleviate any problems.

Chairman DaSilva: I think the gabions in front of the wall will take care of that issue.

Mr. Swift: If the Commission did consider giving us permission to re-grade that lower area, that would substantially reduce our truck traffic.

Chairman DaSilva: I personally don't have a problem with that and I don't think the Commission does either.

They all agreed.

Chairman DaSilva: You can take some of those wetland soils that you are taking by the river and deposit it there. Then we will ask you to replant the whole lawn again.

Commissioner Szkola: Is there a nice fibrous plant material that we can plant to hold that downstream area to hold the root system.

Mr. Swift: Maybe a dwarf willow.

Commissioner Szkola: I think I can come up with something to help hold it together.

Joe Pagliaro, Father of the two owners.

Mr. Pagliaro: There is a large tree that is already there. Our neighbors wall is actually a lot worse than ours. We are trying to beef his wall up so it won't fall. We are doing it at our expense and he is aware of that. He is just not willing to do it himself. No disrespect to him, he just doesn't have the use for it that we do. I have 6 grandchildren, he has none. A lot of the walls are in terrible condition because they have been there for about 75 years or so. Some have fallen in and they have just taken them away.

Commissioner Zahornasky moved to approve application # 04-18, and to allow them to fill in the wetland area with the wetland soils removed from the wall area. The lawn is to be replanted. Seconded by Commissioner Ballaro. All were in favor, motion passed.

3. PERMIT-APPLICATION #04-19, MATTO PROPERTY – 39 FANNY STREET. Proposal to construct single family dwelling within setback and riverside deck construction within regulated area. Accept for review.

Sal Matto, applicant

Mr. Matto: I wasn't prepared to give a presentation tonight. I thought you would just accept it for review, unless you have reviewed it and will pass it, which is fine with me.

Commissioner Zahornasky moved to accept application #04-19 for review. Commissioner Ballaro seconded the motion. All were in favor, motion passed.

4. PERMIT – APPLICATION #04-20, WHITE HILLS SHOPPING CENTER – 194 LEAVENWORTH ROAD. Proposal to expand commercial shopping center involving discharge of stormwater to a regulated area. Accept for review.

Jim Swift, Professional Engineer

Mr. Swift: What we are proposing to do is construct another retail building on the site. The proposed building construction area is fully within the existing paved area of the existing lot. The reason we are here tonight is we have an existing pond on the property next door (Oronoque Farms). (The layout was shown and reference points detailed). We are going to improve the water quality situation in this development. Because of where the building is going to be built we have to re-do the drainage system in the lot. All the drainage comes off the parking lot to a couple of basins in the corner and then into a channel into the neighbor's pond. We are going to have to re-grade the area to put our building in and provide additional drainage structures to get the water back around the building. What we are proposing to do is to interrupt where that old drainage pipe came and dumped into the pond and put in a storm systems swirl chamber inside; a vortex type of unit. We are going to help our water quality for our neighbor in two different ways. One is to put the building completely within an existing paved area. We are going to reduce the runoff rate because we are going to add landscape areas in certain locations that weren't there before.

Commissioner Zahornasky: What is the change in grade?

Mr. Swift: The change in grade is not that significant in the parking lot. We want to position the building so you could walk right onto the sidewalk everywhere. We are creating a low point so that the water will no longer come the way it does now. We are re-directing the water. Where the building will be is now parking lot.

Chairman DaSilva: Are there basins now that pick up water?

Mr. Swift: Only these two.

Commissioner Zahornasky: Does the back of that building back up to the upper parking area of the gas station?

Mr. Swift: Yes.

Commissioner Szkola: Do you have sediment and erosion control during construction?

Mr. Swift: Yes, we do. There is an erosion control plan. We are calling for hooded outlets on the basins, for floatables. The storm septic chamber is for grits, oils and hydrocarbons. We have done what we can to improve the situation.

Commissioner Zahornasky: The chamber is going to be maintained by the owner of the shopping center?

Mr. Swift: Yes.

Commissioner Szkola made a motion to accept application #04-20 for review. Commissioner Beattie seconded the motion. All were in favor, motion passed.

Mr. Cook: Because it just came in, I would like to take a look at it. I think they are doing an excellent job in improving the existing conditions. I need to just reaffirm that they got everything they need to do and where the receiving water is and check the integrity of the channel as well. I think they are well on their way.

Chairman DaSilva: Show us the riprap that you are going to put down at the end and how you are going to address that.

Mr. Swift: Would it be possible for the Commission if we would accept a condition of John's review of the details and upon his concurrence of how we handle the details, would that possibly be enough?

Chairman DaSilva: I don't have a problem with that, but it is up to the Commission.

Commissioner Szkola: Seriously, I just sat out in the hallway and talked with other engineers, they talk about these taking 6-9 months. Give us a month to at least look at it.

Mr. Swift: I understand, but this is a project with no wetlands and is in a parking lot. There is a man-made pond. There is no natural wetland system.

Mr. Cook: But it is a natural watercourse that comes down through there. The pond is man-made.

Commissioner Ballaro: Come back next month.

Commissioner Szkola: I don't even know if the next-door neighbor knows what is going on.

Commissioner Szkola made a motion to accept application #04-20 for review. Commissioner Beattie seconded the motion. All were in favor, motion passed.

5. REVISION-APPLICATION #04-21, BERKSHIRE COMMONS PDD – 2 MURPHY'S LANE.

Proposal to create a 5-unit residential housing development involving discharge of stormwater to a regulated area. Previous single unit development received permit to cross a stream for driveway. Accept for review.

Mr. Cook: I spoke with the applicant earlier and there should be some reductions in the Commissioner's packets.

Commissioner Beattie: This is Phoenix Housing.

Mr. Cook: They are all one in the same. Berkshire Commons is the name of the project, Phoenix Housing is the applicant.

Commissioner Ballaro: Remember the big house they wanted to build with all the big windows?

Commissioner Szkola: This is the one with the sewer line under the brook. You already have an approved application, how do you come in here with another one?

Chairman DaSilva: He could come in if he decided not to build that project and build another one. We could rescind the other one. What he should have done is to come in with a revised site plan under the old application.

Commissioner Zahornasky: I just have a problem in the sense that I was more apt to grant him access to the property going underneath the streambed for a family home. Now I feel I am getting the old shell game here.

Chairman DaSilva: But he is coming in with a new application. From what I heard, which was the son, I don't believe he had any choice in the matter.

Commissioner Beattie: Are there serious wetland issues here?

Mr. Cook: The only thing that is different is there might be reduction of encroachment in the setback with this layout. There will be an increase of impervious area due to parking and the roof area.

Chairman DaSilva: That is a matter of controlling the drainage.

Commissioner Beattie: This says Phoenix Housing, which is the same as on Long Hill Ave., is this going to be low income again?

Chairman DaSilva: Not low income. Don't mistake affordable housing with low income. Affordable housing in Shelton, we are told will sell for \$300,000.

Commissioner Zahornasky moved to accept application # 04-21 for review, seconded by Commissioner Ballaro. All were in favor, motion passed.

6. PERMIT-APPLICATION #04-23, EAST VILLAGE/MAPLE AVENUE ROAD RECONSTRUCTION. Proposal to reconstruct a portion of East Village Rd. and Maple Ave. involving discharge and grading to regulated areas. Accept for review.

Mr. Cook: This is a city application.

The Commissioners accepted the application for review.

7. EXTENSION-APPLICATION #04-25, DSA CORP. – 145 RIVERDALE AVENUE. Petition to extend permit with expiration May 28, 2004.

Chairman DaSilva stated he was excusing himself from the discussion, as this is his application.

Commissioner Zahornasky: John, are there any changes to this application?

Mr. Cook: There are changes and they will be submitting a revision proposal for the next meeting. They are making the building larger and doing some additional grading. What is before the Commission this evening is under the existing grading work with the approved plan, and the grading has not started, based on application #99-20.

The Commissioners discussed the location of the building, formerly the Oats Brothers property.

Mr. Cook: There will also be changes in the landscaping. The work was initiated under the certificate of compliance, which was December, 1999. The certificate of compliance is still valid to December, 2004.

Commissioner Zahornasky: So any work that they are doing is still valid with the existing permit and all they are looking to do is extend the permit.

Commissioner Szkola: How long do we give them?

Mr. Cook: The original permit approval was May, 1999. They didn't actually come in to secure a compliance until December, 1999. The extension could be up to an additional 5 years maximum.

Commissioner Zahornasky: This is not an unusual action, we have done this for other applications. As long as everything is the same.

Commissioner Hayes: The letter requests an extension of permit #99-20 approved on December 1, 1999 and expiring on December 1, 2004.

Mr. Cook: That is why I mentioned the certificate of compliance, which is the communication document between zoning, building and the wetlands office, they didn't pull that until December, 1999. In the meantime, the Commission action clock was ticking from the May approval. The permits decision becomes valid 15 days after that action. That is why it was May 28.

Commissioner Beattie: What is this building going to be?

Mr. Cook: It originally was going to be a cabinet building and now I believe it is going to be for trucking.

Commissioner Beattie: Does this fall in along the idea of the river walk and the extension of all of this in that area?

Mr. Cook: This is downstream of the river walk area.

Commissioner Beattie: I know, but they had intentions to push it further.

Commissioner Ballaro: I think it was to push it further the other direction.

Commissioner Ballaro moved to extend the application #04-25 for an additional 2 years, from May 28, 2004, to expire May 28, 2006. Commissioner Szkola seconded the motion. All were in favor, motion passed.

Chairman DaSilva returned to the meeting.

8. BOVA PROPERTY

Chairman DaSilva: John, bring the Commission up to speed on this item.

Mr. Cook: In your packet there is a letter that should have gone out earlier. I have been in contact with the City Engineer relative to the Commission's April meeting. Mr. Bova had called the Mayor and asked if his item was on the agenda this evening. I indicated to the Mayor's office that it was not. A call was placed to me to put it on the agenda and then I brought it to Chairman DaSilva's attention. *The letter states that the Commission was willing to accept an application from the City or whomever to install a sediment containment solution to resolve the problem based on the recommendations of staff and the Commission subcommittee (Szkola and Zahornasky). The Commission will work with them to resolve this issue as soon as possible. Based on the committee observation the City should immediately clean the basins along East Village Road and the entry to the recreation complex. The Commission suggests an open basin design depending on the engineering considerations. The Commission will discuss the item again at its May meeting to further expedite the matter at this time. In addition, the Commission requests the City submit formal applications for the street department's regulated activities for the remainder of the recreation complex on East Village Road and the leaf composting facility behind Elizabeth Shelton School.*

Commissioner Ballaro: I think we should make this a motion.

Chairman DaSilva: It was done last month and unfortunately a letter didn't go out. What you see in this letter was covered at last meeting and was also in the minutes of last meeting. We are re-confirming what we said at the last meeting and sending this letter out. It was indicated to John for him to prepare an application for this project. I said absolutely not, we as a Commission cannot prepare an applications for applicants, even if the City is an applicant. It is a conflict of interest. We cannot prepare an application and act on it. I think it is clear enough in the letter for the City Engineer, the Street department, or who ever is going to do the work, to prepare an application and bring it to us. We already said we are willing to work with the City to get this problem resolved.

Mr. Cook: The letter was forwarded this afternoon.

D. OTHER BUSINESS

1. White Hills Recreation Complex – East Village Road. Failure to comply or respond to Commission directives.

2. Leaf Composting Facility – Soundview Avenue. Failure to comply or respond to Commission directives.

Mr. Cook: I added this item in the letter to the Mayor stating we want an application from the proper departments.

Commissioner Zahornasky: Why haven't we gotten a reply back on these after months and months?

Mr. Cook: I had a hallway conversation with the Superintendent of Highways & Bridges, and the verbal statement made to me was that it was Parks & Rec. who was responsible, and not H&B's responsibility for the White Hills Recreation complex.

Commissioner Zahornasky: That doesn't explain the leaf composting area.

Mr. Cook: I did submit copies of the January, February and March letters to Tom Welch. He indicated that the City is just like any other applicant. I don't know if he is going to write a letter himself or talk to certain parties directly to move on it. DEP is involved in the leaf composting site. They had received complaints. They have asked me to keep them abreast of the status. I did e-mail the enforcement branch staff that we were still waiting. They were hoping that the City

would deal with it on their own terms, rather than having to get them involved. If they have to, they will.

Chairman DaSilva: My recommendation is to give it one final try. Send a letter to the Mayor, Board of Aldermen, Street Department, Parks & Recreation, and City Counsel. Advise them that unless we hear from them and get applications from them, that we have no choice but to refer it to DEP.

Commissioner Zahornasky: I say we contact DEP on the leaf composting site. As far as the Parks & Rec., I would like the letter to say that we are also permitting an illegal activity to take place on their property. Should they not respond within a reasonable time that we put a cease and desist on the White Hills Facility and close it up until someone does something about it. Don't let them use the fields or anything. We have been after them for months and months to get a response.

Chairman DaSilva: So we need two letters, one for the leaf composting, which will be referred to DEP and the other one for the White Hills Rec. facility. We issue the cease and desist and then we have to have a special meeting to give them an opportunity to respond.

Commissioner Szkola: I think if the DEP is already involved in the leaf composting, it is not going to hurt to copy them.

Commissioner Zahornasky: It is good for a paper trail showing that we have tried to resolve it.

Chairman DaSilva: Address the letter to each of the departments and copy the Mayor.

Commissioner Zahornasky: Should we put a time limit on when we want a response?

Chairman DaSilva: I would like to get a response 15 days before the next meeting. If they don't respond, John can communicate that to us and we can have a conference call between the members to determine the next step.

3. FEE SCHEDULE

- A. COC fees
- B. Application fees

Mr. Cook: I drafted up a fee schedule included in the packet. This is something I have been working on for some time and will hit on it briefly. There are some items that have been no change for 5 years. I checked other municipalities fees as well.

Mr. Cook covered several application fee items and the reasoning behind the fee changes. The Commissioners stated they would take it home and review the changes.

E. MINUTES

1. February 11, 2004 – **Commissioner Ballaro moved to adopt the February 11, 2004 minutes. Seconded by Commissioner Zahornasky. All were in favor, motion passed.**
2. March 11, 2004 – **Commissioner Ballaro moved to adopt the March 11, 2004 minutes, seconded by Commissioner Zahornasky. All were in favor, motion passed.**

Mr. Cook stated regarding the stenographers account. We ran out of money implementing the new formula. In March I sent a request asking for a transfer and had to sit through two meetings with nothing done. The first one, after 3 hours I found out that it was not on the agenda and the second meeting, after an hour, determined there was not a quorum. I did speak with the Mayor and the Administrative Assistant and they were going to address it at the Board of Aldermen meeting tonight to transfer the money to pay for the April, May and June meeting minutes. The department head is liable if they over-extend a line item and I said that if they don't have money to do minutes I would advise the Commission not to have a meeting. The Commissioners agreed.

Commissioner Ballaro moved to adjourn at 9:27 P.M., seconded by Commissioner Szkola. All were in favor, meeting adjourned.

Respectfully submitted,

Marianne Chaya
Clerk, Inland Wetlands Commission
2 Tapes on file in the Town Clerk's office, WCEO Report on file in the Inland Wetlands Office.