

**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 #09-25, PERRY PROPERTY – 34 SHARON DRIVE. A proposal for after the fact permission to fill within upland review area. (19-times since identified)

**III-C. NEW 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 #10-02, IZZO PROPERTY 15 LYNNWOOD DRIVE. A proposal for after the fact permission to clear, grade and landscape within upland review area of a watercourse.

3. Violation: 8 Brookfield Drive - DaSilva Property. Construction and activity in excess of authorized permit.

**III-D. OTHER BUSINESS**

1. Application #10-03 WU /Lighthouse – 30 Commerce Drive. Proposal to excavate and restore an area of contaminated soil within upland review area.

**VI. MINUTES**

March 11, 2010 Regular Meeting

**V. ADJOURNMENT**



CITY OF SHELTON  
INLAND WETLANDS COMMISSION  
REGULAR MEETING MINUTES  
Thursday, May 13, 2010  
7:00 P.M., Room 302

Chairman Zahornasky called the Regular Meeting of the Inland Wetlands Commission to order at 7:07 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  
Jack Goncalves, Commissioner  
Neil Hayes, Commissioner

Absent: Ken Nappi, Commissioner  
Charlie Wilson, 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 #09-25, PERRY PROPERTY – 34 SHARON DRIVE. A proposal for after the fact permission to fill within upland review area. (19-times since identified)

**WCEO REPORT**  
**April 8, 2010**

**APPLICATION #09-25, PERRY PROPERTY – 34 SHARON DRIVE**

**STATUS:** 1. Application received March 11, 2010  
2. 65-day clock to decide action or schedule public hearing expires May 15, 2010

**PLANS:** Sal Perry assured via telephone call 4.7.10 that he would submit the revised plans this evening along with the outstanding items to make the application complete.

**COMMENTS:** Mr. Perry indicated on 4.7.10 he would have the revised plans, application, signatures, letter of owner consent and submit the fees associated with the regulated activities for tonight's meeting.

**COMMENTS FROM MARCH:** As relayed to the membership via email, Mr. Perry affirmed his presence and completion of the package for the above matter. Mr. Perry indicated that if the plans did not arrive before hand he would bring them to the meeting. Therefore no plan review has started. This office stressed to Mr. Perry to get the plans to the agency to facilitate closure of this matter.

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John Cook stated that the applicant did attend the last meeting but due to there was no quorum there was no meeting held. The applicant did submit additional site plans which have been distributed and it does show the adjusted grading for the amount of material. It does incorporate the change of grade and landscaping and the only outstanding item is the payment of the fees. He has been advised of the amount and the office is awaiting payment.

Commissioner Beattie questioned if there was a timeline established regarding the plantings. Mr. Cook responded that the work and the plantings would be done in August of this year; I believe that was the timeline from the March meeting that he attended. Commissioner Beattie questioned if there has been work done without the approval. Mr. Cook responded that nothing has been done within the last year.

Commissioner Beattie continued that at the last meeting Mr. Perry attended, she asked if there would be some type of guarantee of the longevity of the plantings. Mr. Cook stated that there was nothing in writing to that affect and if the Board wishes that can be a stipulation to the motion.

**Commissioner Beattie motioned to approve Permit-Application #09-25 - Perry Property with conditions that there is a one year guarantee of all plantings, payment to be received in full within ten (10) days from today, May 13, 2010, otherwise approval is null and void. Commissioner Hayes seconded the motion.**

**A voice vote was taken, motion passed unanimously.**

### **III-C. NEW 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.

**WCEO REPORT**  
**April 8, 2010**

**Violation: 113 Long Meadow Road - Surovov Property**

**COMMENTS:** Letter to owner

March 19, 2010

Larisa Z. Surovov  
113 Longmeadow Road  
Shelton, CT 06484

RE: VIOLATION: 113 Longmeadow Road – Map#100/Parcel 18

Dear Mrs. Surovov:

This letter is a follow up to the meeting held with Peter Surovov March 11, 2010. Photographic evidence by Frederick Wills of this office on his inspection of March 11, 2010 confirms the following regulated activities:

1. The excavation of soil and construction of a retaining wall directly adjacent to a branch of Means Brook on your property.
2. The construction of a pressure treated bridge over a branch of Means Brook on your property.

These activities conducted without benefit of permits by the office of the Inland Wetlands Commission constitute an apparent violation of Section 6.1 of the Shelton Inland Wetlands and Watercourses Regulations. At its April 8, 2010 regular meeting the Inland Wetlands Commission, will consider this matter.

To resolve the violation you are to:

1. Remove all regulated activities and restore the areas in question. Or,
2. Prepare an A-2 site plan along with application and any other necessary data determined needed to evaluate an application after-the-fact to sustain the existing work and complete any other regulated activities. No work towards completion or finalization of the structures presently on site is to occur. Failure to adhere to the assurances by Peter Surovov that all work shall cease, until if and when the agency grants authorization, shall result with the issuance of a formal cease and desist order.

Connecticut General Statutes and Shelton City Ordinance specify that any person who commits, takes part in or assists in any violation of any provision of the Inland Wetlands and Watercourses Regulations shall be subject to the penalties provided in Section 22a- 36 to 22a-45 inclusive, including up to one thousand dollars, \$1,000.00, per violation and in the case of a continuing violation each day shall be considered a separate and distinct violation. Knowing and willful violations may be subject to two thousand dollars (\$2,000.00) per violation per day and criminal prosecution.

Respectfully,

John R. Cook,  
Wetlands Coordinator/Enforcement Officer

Cc: Thomas Welch, Corporation Counsel  
Frederick Wills  
Inland Wetlands Commissioners

Via Regular and Certified Mail 7008 1140 0001 5269 7313

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Peter Surovov  
113 Longmeadow Road  
Shelton, CT

Mr. Surovov stated that he was here tonight to explain the situation. In pointing to the plans he stated that this is how much land has washed away through the years. My yard is getting smaller and smaller. This is 1974 and this is today. If I build the wall I will definitely preserve my yard from the deterioration. This soil is very soft and each time it floods, it used to flood once or twice every second year or so and now it flooded three times in once month. A big part of my yard is then underwater. This land here is higher than my yard and also on this side is higher as well. So my yard is lower than both of my neighbors and water collects there.

Chairman Zahornasky stated so in your letter that you sent the Commission, your recommendation was to build a wall. Mr. Surovov replied yes. Mr. Cook stated that if the wall gets built higher than the surrounding land then it will divert. Commissioner Hayes asked how much will it divert. Mr. Cook replied that it won't divert at all if they keep the height at the ground level. This is where he stopped. Mr. Surovov added that when there is heavy flood all the water will be above the wall but the reason that I'm building the wall in the first place that the level goes up because Means Brook has to be dredged and every year you can see there is big sand buildup. Our Association already petitioned several times to the City to dredge it and this has been going on for 20+ years. I bought the property 30 years ago but it's a slow process. That would be the best solution. I shouldn't build anything, I'd rather go on vacation than to have to incur this expense and build this but I have no choice because I'm losing land. Commissioner Hayes stated so if the water rises and rushes the wall will divert the water downstream. Mr. Cook responded that it would divert directly across. In this shot here it shows the final water elevation next to the bridge and you can see that the wall at

that location is higher than the surrounding land at the bridge. There are no elevations on these plans so I really can't tell. If the flood elevation is at 283 and he has a proper wall at 285, without knowing to this point what the height of that bridge is. If the bridge were at 285, that wall will prevent the flood water from coming onto his property. Even if it was only a foot above that wall, basically it's in violation of the ordinance; it's not the Commission's regulations. Your concern is your land washing away, my concern as staff is that the Commission is not faced with 6 other homeowners that now saw I've been getting more water because he built his wall. Chairman Zahornasky interjected but what Mr. Surovov stated that he had a low area where now we're not increasing flow, velocity or volume downstream, because now what it's doing is flooding into his yard. We're not causing any problems downstream.

Chairman Zahornasky stated that unfortunately the City or this Commission or other Commissions never came up with anything not even a guideline to address the issue; it's always fallen on the property owner. If he puts in a rip rap of some sort it could help. Mr. Surovov stated 25 years ago I put the stone, I couldn't find a single one of them. I put in 60 pounds of stone. Chairman Zahornasky stated that at this time a walkthrough needs to be scheduled with the City Engineer. Mr. Cook stated that there is no doubt about the quality of the work it's the effect of that work that may have. The goal of any homeowner is to protect their property. It may be simply to provide a profile along the stream and some elevations to ensure that whether it was rip rap protecting the slope, because it's not from erosion per se of a scouring, this is a back water area. In 1965 it was all woods, there was no water there. During the course of the subdivision is where Means Brook was clear cut, it was a forested flood line. The soils, a lot of them were just bulldozed off to the side.

Commissioner Hayes asked about openings. Mr. Surovov replied that there will be openings. I will be putting in PVC pipes from the ground into the wall. Chairman Zahornasky stated that we're all on page here, how do we protect your property but also protect the next guy.

Chairman Zahornasky asked Mr. Cook to get with the City Engineer or the Assistant City Engineer and do a walkthrough and come up with a solution. He stated to Mr. Surovov that we want to save your backyard as much as you do but we need some assurances that we're not going to impact downstream property owners as well. Mr. Surovov stated that he will need assistance because he does not understand what to ask of the City Engineer. Means Brook is not what it was 30 years ago when I bought the property. There is impact on the fish, there is a sandbar, and there is pollution, stuff that is overgrown. It's a disaster. This has to be addressed. What I'm trying to do is save my property, and it's really not my problem. This is your problem, this is City problem. My next application will be to DEP because you have to do something about that. I've had to live with this for 30 years; we've been waiting for a resolution for 30 years. We've been waiting for a response from the City and there has been none. Not only don't you do anything, you don't let us do anything. I'm outraged and so are some of our neighbors. This is completely irresponsible behavior of the City Officials, and on top of that we pay taxes. For every inch of the property that I have I have to pay taxes and if I delay my taxes you fine me, but there's nothing you can do but postpone and postpone. Mr. Cook asked me why I didn't ask for permission. It took 30 years to get drains in front of my house. I had complained and complained since 1978 when I first bought the house. I'm very disappointed, I've spent money with the stones and then to get it surveyed. I cannot apply to insurance of my property because of the times I have done before. I had FEMA out there. Sorry if I spoke my mind. Commissioner Hayes stated but you bought this property with Means Brook on it. Mr. Surovov replied yes, but it was man made. This is a City problem. Mr. Cook responded, for the record and for clarification the issue about the bridge, the wall those are things that have never been approached to this Commission. This is his first presence here. There is a distinction between what the Commission is reviewing here this evening and the whole Means Brook question. With his frustration with the Means Brook question he apologized, he admitted the violation. He works with the City Engineer in New Haven so the issues of flooding and regulations are not new to him. Regarding Means Brook from day 1, that was doomed to extinction, with all do respect it was constructed before there was a Wetlands program. It was part of an extensive wetlands system and that's why I did exhaustive research looking at some of the information, generating the photographs going back to 1934.

**END SIDE A, TAPE 1**

It's more or less trying to shed a little more light on the dynamics of something that is very difficult to now rectify. I'll pass along this photograph from 1934; you could see the entire Means Brook, what I've done was dotted out the property location. The forested area is clearly evident even the Means Brook system. It was only through the various sections of development, it wasn't the City that dug it out, it was the developer when they were laying out lots and using some of those excavated soils to grate lots where they shouldn't have been lots with today's standards. Yes there is road sand; you also have the sediments of those soils. I spoke with the President of the Association and he's working on his own application for an addition on his house, the Commission may be aware of the first application that came about in 1986 when the 4 homeowners wanted to do some dredging and the Commission had no objection to it except it needed to be done in a cohesive fashion. I did share the same frustration with you that day we met. Mr. Surovov replied, you are correct at that time there was no Wetlands Commission, it was the City Engineer. I had some problems with the developer when he was doing some shoveling with a crane on my lot. Commissioner Hayes questioned the height. Mr. Surovov replied that this is ground level, this is the footing, this is 3' and this is 3'.

The applicant will sit with the City Engineer and John Cook to try to come up with a solution. He will return to the Commission next month with a plan.

2. PERMIT-APPLICATION #10-02, IZZO PROPERTY 15 LYNNWOOD DRIVE. A proposal for after the fact permission to clear, grade and landscape within upland review area of a watercourse.

### **WCEO REPORT** **May 13, 2010**

#### **Violation: 15 Lynwood Drive – Izzo Property**

**COMMENTS:** Upon notification of the violation the Izzo's immediately ceased activity except for limited cleanup of debris as authorized by the office. Within days of the notification they retained the service of a survey and engineering company to prepare a plan for work completed without benefit of permit and remaining activities desired to complete. Within two weeks of meeting the owners the engineering company had prepared plans to sustain and complete the owners' project. This prompt response is commendable.

They have paid application and permit fees along with applicable surcharges.

In reviewing the proposed plan the following recommendations are offered:

1. The swale references should be properly relabeled as a watercourse.
2. Within the 25' along the watercourse the stumps should remain to allow regeneration. Within the 25-50' area the smaller stumps may be pulled but the larger ones should be ground.
3. No problems with the foot bridge request.
4. Leave field stones within the 25' area alone. Use a combination of medium field stones from the 25-50' area and riprap to stabilize the banks closer to Lynnwood Drive.
5. Utilize groundcovers and mulch pathways within the 25' strip.
6. Provide larger and more quantity of tree plantings incorporating oak, maple, ash instead of willows if the stumps are not allowed to regenerate.

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Paul Izzo  
15 Lynnwood Drive  
Shelton, CT

Chairman Zahornasky asked you're just trying to create more lawn space is that the reason. Mr. Izzo responded that the basic reason was that back in June of 2009 after a heavy rain storm there were (2) 36" in diameter Maple and a 36" in diameter Oak tree that fell over. One fell forward towards the street and it was in excess of 50-60' and the other fell to the right. During the year we

started losing more trees that were falling over basically because we're getting a lot of water from upstream that is starting to inundate that entire area. There is a pond at the top of street. In the Spring it starts to flood. I believe that caused those trees to fall over. Looking at that and the woods, we decided that the best course of action was to clear that area. That's basically what happened. Chairman Zahornasky stated alright, one of my reasons for asking in looking at this you have a man made swale which really doesn't make it to the existing drainage which I thought was strange. I was wondering why the water wasn't coming here instead of crossing the property here. That being said, what is the existing drainage easement and what does that look like. Now we're proposing a foot bridge coming here across the man made swale and into a drainage easement. Mr. Cook replied that the ground on the other side of the foot bridge is actually substantially higher; it's almost an 8' difference. Where they're proposing the foot bridge actually is a well defined channel, at the bottom of the channel is actually lower than the surrounding easement. Chairman Zahornasky continued that it's kind of deceptive; the swale is acting as the drainage easement. It shouldn't have been the case.

Linda Izzo  
15 Lynnwood Drive  
Shelton, CT

Our intention was to not take down any trees because that is our privacy and also for wind protection as the high winds come up our street. So we had not intentions until these 2 big trees came down and there have been several small ones since that have fallen and we have several trees that are leaning. I believe April 15 two years ago when we had that flooding, the water actually came over the man made swale where you see the existing shed and undermined our driveway. Now the water is going into our garage. So our intention was to preserve what we have existing and make our neighbors happy because they're complaining of the falling trees and they're pretty dangerous. One more thing that I do want to bring up is underneath the street where the water is going, it's blocked. It's been blocked, we called Engineering and it's never properly been cleaned out so the water there is stagnant. Mr. Cook responded that it does need some maintenance, that's not the culprit because that's almost 12' below where the water is spilling over. Directly behind the existing shed, this is just a partial survey, like I said I compliment the efforts that we're undertaking to respond so quickly to the Commission consider some of the other issues the Board has had to deal with of late and so it's just a partial survey but this upper area is very flat and very shallow. Once as it starts to make the curve down and at that point not only with the insufficient grade but the channel itself is substantial. The other portion is there is some erosion because I think what's happening is trying to find its own point. I walked beyond their property and you could see the small stream which is almost to the second property beyond theirs. It's a small little river, it picks up, at some point there's another culvert that comes in from the surrounding subdivision, and it also feeds into the system. There's another one that comes in from Stendhal Drive that feeds into this system and at that point is where it picks up with rather dramatic velocity during a storm.

Chairman Zahornasky asked Mr. Izzo how he was planning on removing the stumps, with a machine. Mr. Izzo responded a combination of grinding and taking the smaller ones out. Chairman Zahornasky added would it be a possibility to take some of the sediment out of the stream channel to prevent the flooding on the yard and maybe build up a bit of a berm. Mr. Cook added I didn't observe any problems in this stretch; it would really be behind the shed that you would have to look at as far as doing any work because that is where the channel is quite shallow. It's this upper portion, if there is any attention that's needed it would be there. It doesn't look like that was ever actually excavated. Water came down through there and the part that was actually created was some place between the road and probably behind the shed. Mrs. Izzo responded that in 1991, the part you're talking about behind the shed, that was 6-7' down and the boulders that border the property are now falling down into it. All the rocks that were there have been washed away. Chairman Zahornasky stated that if you're going to have a machine out there and if the Commission wishes to pull some of these stumps out including pulling some of that sediment out and make a little berm seeing that down stream can obviously handle it. I think that would solve a lot of the problems at the same time you might as well make it part of the same permit and alleviate your problem upstream because obviously downstream it's not a problem.

Chairman Zahornasky asked the Izzo's to meet with John and clarify more of what is going to be done and to come back next month and address the Commission.

3. Violation: 8 Brookfield Drive - DaSilva Property. Construction and activity in excess of authorized permit.

**WCEO REPORT**

**April 8, 2010**

**Violation: 8 Brookfield Drive - DaSilva Property**

**COMMENTS:** Letter to owner

March 24, 2010

Manuel L. DaSilva  
8 Brookfield Drive  
Shelton, CT 06484

RE: VIOLATION: 8 Brookfield Drive – Map#73/Parcel 36

Dear Mr. DaSilva:

This letter is a follow up to our meeting of March 10, 2010. Photographic evidence taken by this office due to a written complaint received March 10, 2010 confirms the following regulated activities:

3. The permit to construct a 12'x20' shed was exceeded by construction of a 12'x36' structure directly adjacent to the regulated area.
4. The depositing and leveling of approximately 3-loads of 1.5" stone around the shed directly adjacent and/or in the regulated area.
5. The machine work of grading, leveling, filling soil within the regulated area.
6. The removal of surface boulders from within the regulated area in direct opposition of previous correspondence from the Inland Wetlands agency.
7. The construction of a 6' tall stockade fence on a reconstructed and newly constructed stonewall, within and adjacent to regulated area.

These activities conducted without benefit of permits or exceeding permits by the office of the Inland Wetlands Commission constitute an apparent violation of Section 6.1 of the Shelton Inland Wetlands and Watercourses Regulations. At its April 8, 2010 regular meeting the Inland Wetlands Commission, will consider this matter.

To resolve the violation you are to:

3. Remove all regulated activities and restore the areas in question. Or,
4. Prepare an A-2 site plan along with application and any other necessary data determined needed to evaluate an application after-the-fact to sustain the existing work and complete any other regulated activities. No work towards completion or finalization of the structures presently on site is to occur. Failure to adhere to the assurances by yourself that all work shall cease, until if and when the agency grants authorization, shall result with the issuance of a formal Cease and Desist Order.

Connecticut General Statutes and Shelton City Ordinance specify that any person who commits, takes part in or assists in any violation of any provision of the Inland Wetlands and Watercourses Regulations shall be subject to the penalties provided in Section 22a- 36 to 22a-45 inclusive, including up to one thousand dollars, (\$1,000.00), per violation and in the case of a continuing violation each day shall be considered a separate and distinct violation. Knowing and willful violations may be subject to two thousand dollars (\$2,000.00) per violation per day and criminal prosecution.

Respectfully,

John R. Cook,  
Wetlands Coordinator/Enforcement Officer

Cc: Thomas Welch, Corporation Counsel  
Thomas Dingle, Zoning Enforcement Officer  
Inland Wetlands Commissioners

Via Regular and Certified Mail 7008 1140 0001 5269 7306

Manny DaSilva  
8 Brookfield Drive  
Shelton, CT

I brought some photos and I have a video too. In terms of the size of the shed, I have a wood burning stove and an outdoor fireplace. At first it was going to be an outside storage just for firewood but then the neighbor from the second floor, even though I have a 6' fence would be able to see all the mess, so I decided to put a wall and leave the larger opening, but I did exceed the permit in that respect. In terms of the gravel I'm going to show some video to the reason that I brought 3 mason dumps, not big truck loads, just small mason dumps of gravel because of my rear left neighbor, during the reconstruction of this wall I realized why this area was wet. I actually encountered a leader pipe coming under my wall which I reconstructed into the back of my shed area. So that prompted me to get the gravel. In terms of filling I did bring in a truck that brought boulders for the wall, I didn't fill anything. He was there; he was able to see the stumps of those trees. Was there disturbance, yes, but the machine had to get the rocks to that side. In terms of whether or not this area is really wetlands, we're going to show you some video. Initially when I did the house I had this area flagged here. We never got this area flagged here in the back and I think it's wet mainly because of my neighbor's leaders. I'm going to show you a video of when it rains the water that forms it can't just be from the water of the ground. So yes I did go above and beyond my permit in terms of bringing in the gravel but it was to try and solve a problem from my neighbors. I'm going to start the video; the first one was taken 3/29/10 to show the water problem.

#### **END SIDE B, TAPE 1**

Video of the property was shown at this time.

Chairman Zahornasky asked so if the water is coming in on this corner. Mr. DaSilva interjected that it makes its way under the shed. Chairman Zahornasky stated I understand that, but if you put it in over there why would you make this shed bigger. Mr. DaSilva responded that's not why I built the shed bigger. I did it, I did it. Chairman Zahornasky responded that's what I'm trying to get at. I understand you have a problem with water that's a whole separate issue, what we're going to deal with here is why you exceeded your permit, you came in here we gave you this first shed. You're lucky Mr. Wilson is not here because Mr. Wilson is very upset with you. We gave you a break. As far as I'm concerned this Commission gave you a break to build this second shed. There were members of this Commission that said you know what why don't you put in on your property over here. We gave you permission to do that and then what you did was just slapping us in the face. That's the way this Commission feels, I'm speaking for the Commission and I think we all agree with it, and you just went ahead and did what you wanted to do and you can't do that. We gave you permission to do this; we never gave you permission to extend it another 16' to put a fence or to bring in gravel. Why even bother coming in here and wasting our time if you're just going to go ahead and do what you want to do. My recommendation would be to tear it down because that's how I feel, because that's how you made me feel. You wasted my time; you wasted everyone else's time because you went ahead and did what you wanted to do anyway. Why bother coming in here? Now you come in here and show me about water coming in, I don't care about that right now, we're here for this.

Commissioner Beattie added, we spent so much time, as you said we wanted him to move it and so forth and I didn't agree when we gave it to him. We did. Chairman Zahornasky stated that I don't really care so much about the complaint to Planning & Zoning, because that has nothing to do with us or the shed. Running a commercial business in a residential area that has nothing to do with this Commission. So I'm not concerned about the complaint, but the complaint prompted an inspection and that's what brought you to this point. We gave you permission to do this and what gave you the permission to go ahead and do what you wanted to do. I don't understand that. We gave you permission to put a second shed in there against the wishes of some Commission members. Mr. DaSilva replied that was Open Space already, the fence was there and I built the fence on the other side. Chairman Zahornasky added, I tell you build your house over here and you go and build your house over there and now we have problems. What are we even here for then? Just go ahead and do whatever you want to do. I tell you I'm ticked off about this. Mr. Wilson would be so upset. He didn't want this in the first place. Mr. DaSilva asked if he could show

a video of what it looks like. Chairman Zahornasky stated that's not the issue. You could have built the Taj Mahal, without the proper permits and the proper procedures what good is this Commission if we come here on a monthly basis and everyone comes in here and signs the proper papers and goes out and does whatever they want to. Where is the City going to be at that point? We have people coming in here trying to work out problems and then we have people like you that say I'm going to go ahead and make my shed another 16' longer. Suppose everyone did that. Next thing you know, my property is no longer my property and then I'll build on my next door neighbors. I don't know what to tell you, I'm that upset with you. Mr. DaSilva replied the shed has no floor, just the gravel, it just has the roof. Chairman Zahornasky replied then I would say take it down. That's my recommendation. Commissioner Beattie added, we didn't even want this in the first place, he more or less begged us to let him put this in. What if everyone does this? The next guy would say you gave it to him so give it to me. Chairman Zahornasky stated one of the things that we did was establish an after the fact fees, was to try and prevent after the fact applications. We tried to make the penalty fit the crime.

Commissioner Dunford asked if the shed is within the wetlands. Mr. DaSilva replied that the shed is not in the wetlands. Mr. Cook stated that it was in the setback, it was originally proposed there, I approved it to move it outside adjacent to the other shed and then he appealed my decision to come back to the Board to put it in the location that he proposed and that was granted. Mr. DaSilva added but the wetlands line was flagged just like this. Chairman Zahornasky stated but the issue is we approved this much, you built this much. Mr. DaSilva replied it's in the regulated area. Chairman Zahornasky stated then I would go back and adhere to the letter of our permit that approved this much. Mr. Cook stated I have all the prints with an earlier version when he first acquired the property and he started adding on, the wetland line was back into here, through the negotiations of the Board they more or less established a new line to put plant materials, and he actually offered a Conservation Easement here to further restrict in this area. It was needed because it didn't tie into anything. So he did put additional plant material, the pines per staff's recommendations. That was '06, then '08 he applied for this first shed, I approved it subject to shifting it 5' further this way and then in '09 is when he came in with this plan and I approved it to be either here or here, he didn't wish that so he came back to the Board to locate it here and that's what he applied for it with this certificate. Chairman Zahornasky stated that's what I'm saying it's a cookie cutter effect; we gave him this because we got this. In approving the next shed it's basically out of that area. That was one of your recommendations that he shift it 5' further basically out of this area. So this one is directly in it now in this area, which John had the first shed move out of. So we let him go into this area and build a second shed and then he makes it larger.

Commissioner Hayes asked if this was an as built because something is out of scale. Mr. DaSilva stated that I moved the shed here to get the wood storage. Chairman Zahornasky added that the back of the shed is where it was originally proposed, it was shifted this way. So the back isn't any closer this way but it's actually 16' larger this way. Commissioner Hayes asked what the impact was. Chairman Zahornasky replied it's the principle of the issue, that's what I'm trying to get at. We give you an approval to do something and time after time after time when this Commission has to go back out there on inspections and finds that these things aren't done, whether it be a restoration plan, tree cutting plan. It's the same thing here, you told me you were going to build a shed that was this big, I gave you approval. All you had to do was come back to this Commission, just don't go ahead and do what you want to do. There's no stopping anybody else. This is why we came up with after the fact penalties to prevent people from doing this. We gave you the permission for the sheds because you have a beautifully manicured yard, I'm sorry I can't see where it would benefit anyone at this point.

Mr. DaSilva asked if he could get that back area flagged because it was never flagged. Mr. Cook stated that on Joe Perreira's original plan, because there was no work, he just stopped it. Because on the original plan it had the flag locations they stopped it here because there was no work taking place here so they didn't flag the whole property. It's these flag locations here that need to be reestablished. It's possible to get these points re-established; you could pay a soil scientist to flag that here. Mr. DaSilva asked if that was going to help me. Mr. Cook responded you're still going to be within 50'. These are the closest ones here. Mr. DaSilva stated that the stone wall was there, here is a new stone wall but in retrospect the amount of stone that went there in the land was very little. This wall was 5' wide with stone on top of stone and then I fixed this wall and I put larger stone on that wall. Mr. Cook added for coordination the Board has to say apply for a permit after

the fact or restore it and then to what degree would the Board be satisfied. With what I have identified, what does the Board wish to have executed. Mr. DaSilva added the wood shed started with 2 posts and a roof, just an overhang and I'm figuring that's not really a shed it's just a roof, but then the neighbor could see all that junk so I built the walls. I could take the walls out and you'll have 2 posts with a roof. Commissioner Hayes interjected but you've created an impervious area. Mr. Cook asked if the back part is on blocks. Mr. DaSilva replied nothing is on blocks only a post buried here and a post buried there. Is there something that I can do, a fine? Commissioner Hayes stated it's just disrespectful. Mr. DaSilva stated that was not the intention. Can you go there and see? Chairman Zahornasky replied it's not a question of what's there or how well it's constructed or how nice it looks, it's the principle of the matter. This is what I'm trying to convey to you, if you had come back. You nicked and dined us is how I look at it and we kept giving you more and kept giving you more and even when we gave you more than we wanted to you still took more. That's the way we feel. You don't understand the position you put us in. We're putting ourselves behind an 8 ball. I don't want to be behind the 8 ball. Not because of a shed or a bad decision on your part or a bad judgment on your part. Your bad judgment is certainly not going to put this Commission or the City in a bind. I'm sorry, it doesn't work that way. Your decision has consequences.

**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.**

Mr. DaSilva asked, so I have to take it down? Chairman Zahornasky stated you have to comply with the original permit which means you have to bring it back. Mr. DaSilva asked if there was an appeal process. Chairman Zahornasky replied yes there is, you can contact Mr. Cook about that. Mr. Cook stated that there is a procedure, I'll draft one up because of this particular case the way the procedure, I'll check because of the administrative protocol because this was not like a cease and assist order, it was a violation. I'll check with Counsel to find out what is the next step to actually issue the order to remove it, and then there will be a show cause hearing. This was a fact finding at this point, facts are proven, Commission made a judgment on those facts in order to correct it, the order will go out and there will be a show cause and then to give you the opportunity to show cause why the order should be reversed or lifted. Then the Commission could reaffirm that. There are certain steps and I could go through that with you but I believe that's probably the way it will be. Mr. DaSilva stated then how do I go about, water is definitely a Wetlands issue, how do I go about fixing this drainage problem. I have the expense of building it and knocking it down, people around me shouldn't put me into this predicament. Mr. Cook responded we need to look at the contours and where that might be, if someone is doing activity on one person's property and it affects another person's property, Corporate Counsel says it's a civil matter because someone is doing something to somebody else's property and if this portion is not a wetland which there is no evidence to show that it is a wetland. Mr. DaSilva added it's regulated and it's within the 50', if I'm having the issue with the shed then why can't other people comply too. This is not right. Mr. Cook asked if there was pipe. Mr. DaSilva answered there was a pipe, if you go 5' into their property you'll see the pipe that I took out and it's laundry water. When we were working on the roof I saw the underground leader, the gutter, a space and another spout into it. I smelled the laundry. Mr. Cook added as I mentioned Valley Health has the ability to do a dye test. Mr. DaSilva interjected but the roof water is you guys. You have to regulate something. Mr. Cook continued that the Commission would regulate the activity if this pipe was installed since the Commission developed regulations. Older properties the Commission has never gone back and if someone had a roof leader that's been there for 45 years they don't have the right. You need to contact Valley Health. They have the ability to test that water to see if its sewage or gray water, but even gray water is supposed to go into the septic system. If it's gray water and their system is failing then it's 2 things. They don't have the right to dump the water on your property and if you got your own attorney they'd tell you that. This Commission doesn't know unless there was is affidavit that states I saw them put this in last year. Then we can take action. Mr. DaSilva asked how could this person put a septic system within 50' of my property which ahs the wetlands. Where does it end? I'm the one that has the issues. Mr. Cook stated that person also complained about a while back, when their system failed the engineering company did test holes; they did come in with an application and

given that you can drink the water and flush the toilet are considered necessary components. Mr. DaSilva interjected I just wanted to keep my property manicured and neat. Mr. Cook interjected, people expect to be able to flush the toilet and drink the water. Mr. DaSilva stated that life, liberty and the pursuit of happiness is in the Constitution.

### III-D. OTHER BUSINESS

1. Application #10-03 WU /Lighthouse – 30 Commerce Drive. Proposal to excavate and restore an area of contaminated soil within upland review area.

Mr. Cook stated that the application he was intending to process himself. It's an industrial lot adjacent to Progress Drive and Commerce Drive. For new Board members there was a site that was approved some years back to the Baker properties. That never went through because the majority of the area that you see has wetlands on it except for the parking lot. The parking lot was used for the existing facility which is now Wu/Lighthouse. In the course of doing due diligence they discovered some contaminated soil on the parking lot and the jest of the application is to remove those contaminated soils within the buffer zone and restore to existing grade. I was planning on acting on it as an administrative permit. The construction time is about 2 days. We're looking at 6 100<sup>th</sup> of an acre of activity so about 2500 square feet.

Chairman Zahornasky asked if Mr. Cook was advised what the contamination was. Mr. Cook stated no that he spoke with the Engineer for HRP it's not any discharge water from any industrial uses. If the Commission wishes I can get a copy of that analysis. Chairman Zahornasky stated that he was just interested that after all these years with all the developed properties up there to find a little piece like that. I was just curious as to what exactly it s contaminated with. Maybe there is something that we should be more aware of. Maybe a red flag to the City in general. Maybe midnight dumping. Is the contamination is any way directly related to the activities taking place there. Something just doesn't sit right. If you found the contamination wouldn't you expand your search? Maybe one test boring over here and one over here and one a little further out. I think we need to know more before we act on it.

### VI. MINUTES

March 11, 2010 Regular Meeting Minutes

**Commissioner Beattie motioned to approve the March 11, 2010 Inland Wetlands Regular meeting minutes. Commissioner Goncalves seconded the motion.**

**A voice vote was taken; motion passed unanimously.**

### V. ADJOURNMENT

**Commissioner Hayes motioned to adjourn. Commissioner Dunford seconded the motion.**

**A voice vote was taken; motion passed unanimously.**

**MEETING ADJOURNED AT 9:37 p.m.**

Respectfully submitted,

*Sophia V. Belade*

Sophia V. Belade  
Clerk – Inland Wetlands

2 tapes available in Town Clerk's Office