

**CITY OF SHELTON  
INLAND WETLANDS COMMISSION  
REGULAR MEETING MINUTES  
Thursday, September 9, 2004, Room 303, 7:00 P.M.**

**I. ROLL CALL:**

Alvaro DaSilva, Chairman  
Gary Zahornasky, Commissioner  
Celeste Beattie, Commissioner  
Randy Szkola, Commissioner  
Charles Wilson, Commissioner

Absent: Norman Santa, Vice Chairman  
Neil Hayes, Commissioner

Also Present: John Cook, Wetlands Enforcement Officer

**II. BUSINESS MEETING**

Chairman DaSilva called the meeting to order at 7:00 P.M.

**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.

Chairman DaSilva asked if the Commissioners wish to address the Shelton Land Conservation Trust item now or later? The Commissioners said they would like it to be done later.

**B. OLD BUSINESS**

1. PERMIT APPLICATION #04-35, HUNTINGTON DEPOT – 100 HUNTINGTON STREET.

Proposal to pave gravel parking area and construct a stormwater retention basin discharging to a regulated area.

Jim Swift, Licensed Landscape Architect, Civil Engineer

Mr. Swift: This application concerns the gravel driveway constructed for Huntington Depot, just off of Lane St., on the other side of Means Brook. Reference points were shown. The maintenance of the lot is becoming problematical. It was built as it was supposed to and is flat. What has happened is the materials have been packed down and pretty much is generating 100% runoff. It seeps off in different directions from the gravel. The proposal is to pave the lot. Beyond just paving it what we are proposing to do is try and re-establish what I think was the original intent of the Commissioners to try and build it so that the water quality won't affect Means brook or any surrounding wetlands. The proposal is to take the exact same area of the parking lot and pave with bituminous paving. The change I am proposing is to keep all 4 corners of the lot at the same elevation to push all the water to one area of the parking lot. Instead of being flat, it would run off. I have proposed building a retention basin in the corner so all the water will run off to the basin, which is sized to hold 1/2" of water. It has a detail of grasses at the bottom and the sides to act as a bio-filter and then have the water soak in the undeveloped area. The intent is also to make sure that if the retention basin fill up that we push it off to the side. There is a small ditch watercourse at the side of the parking lot. If we do make the water flow off into that ditch we protect the Means brook to make it follow the small watercourse before hitting Means brook.

Mr. Cook: From the WCEO Report\*: In reviewing the past applications the supplemental parking along Lane St. was presented, and expected to remain as a graveled area. It was also a condition from the 1987 and 1990 application approvals (copies in the Commissioner's packets). While the proposed detention basin will likely provide added water quality improvement function and should be considered a best management practice. The Commission must consider if its installation wholly substantiates the waiver of those prior approvals to justify the pavement component of the current application. The replacement of the existing gravel with a fresh stone base and drainage rock, monoslab or turfstone blocks and/or several porous pavement alternatives may be considered. The Commission long established concerns with a parking area dating back to the 1983 applications. Conversations with Rick Schultz, P&Z Administrator

confirms that the intent of that Commission was to maintain a gravel parking area as a means to soften the appearance of a commercial structure along Lane St. In addition, Lane St. has become a scenic road since the Commission's action in 1987. The desire to maintain the soft approach is likely stronger now than in 1990. Staff suggests that alternatives have not been fully Explored as referenced this evening and at the August meeting. However, should the Commission grant the request that it also require the applicant incorporate seed mix other than just grasses within the basin.

Commissioner Szkola: Gravel parking lots require maintenance to be fully functional, has this been maintained properly?

Mr. Swift: Yes it has. The intention was to build it flat to maximize the amount of water that infiltrated the surface. I did do a survey of the parking lot. There are no potholes or damage to the surface. In that respect, yes, it is working as designed. It is packed down and there is not very much infiltration of the water into the gravel. I don't think it's soaking up the water like the intention was. I don't know if that's possible, considering that it's active. If you go out there, any given day, there are 6 or so cars parked in various places. There is a lot of traffic, not a lot that is used for over-flow. The intention is to do what the Commission intended to do originally. I understand the point about P&Z and the aesthetics of it. I am not trying to circumvent the intention of the Commission, which was to keep the water quality out. I am trying to improve the maintenance capabilities and still do what was originally intended.

Commissioner Szkola: When this first came in I remember the intention of this lot was to be used as over-flow parking or temporary. We wanted to keep the organics under there because of the flooding of the brook all the time or the Far Mill River, we didn't want to give up the sponge effect to the soils. If it has come to the point that it is no longer an over-flow or temporary parking lot, that is a problem because of the traffic. The soils are no longer absorbing, that is what we wanted it to do. I would like to see him explore alternative approaches. I have seen the turf stone used very effectively in various sites. It is not maintenance-free. Correct me if I am wrong but I thought there were organic soils underneath this and I thought that was the intent. If you put in bituminous over the top of this, what good is that going to do?

Chairman DaSilva: I don't think it was just the organic soils, I think the reason we didn't want the pavement was because of the collection of oils on the pavement. As you said, the gravel is so compact; it acts like a paved surface anyway.

Commissioner Beattie: Is it possible to dig up and start over?

Chairman DaSilva: What is the reason for paving versus keeping the gravel?

Mr. Swift: Pretty much the maintenance. It is hard to plow. Because it is so flat and becoming so impervious, and I don't know how pervious it was in the beginning, when you get a heavy rain and the water just sits there, it is hard to use. The other reason would be for convenience of the users.

Chairman DaSilva: If some other surface is to be placed on the gravel, which is no longer functioning the way we intended it to function, and our intent is to keep the waters supplying the underground soils, what he is proposing by creating the retention basin and still allowing the waters to continue to stay and be dispersed to those soils, he is basically accomplishing the same thing that lot originally accomplished by being gravel. I'm not sure that 1/2" basin design on that retention pond is sufficient. If you have a storm like today you would be overflowing the basin. Besides the turfstone, what other options are out there?

Mr. Cook: There is one trade brand, which is turfstone and another is monoslab, same concept, with interlocking concrete openings to be filled with stone. The alternative is to dig up what is there and put in geo-textile. That would survive about another 10 years or so. There are two others, both have a more urbanized look and I am not familiar with. One is called a porous pavement, which is like a pavement but is very permeable and there is also a porous concrete with the same thing. They look like traditional paved parking lots but are more permeable. The monoslab and turfstone look more of a softer approach and direct infiltration. The other would be replacement of the stone.

Commissioner Szkola: Where that green area (drawing) is, are we giving up wetlands?

Mr. Swift: The entire area is sort of a flood plain and wetland soils.

Ron Schawecker, one of the owners.

Mr. Schawecker: Part of this in non-wetland soils.

Mr. Cook: For technical clarification, it is an innagrat(?) soil, which is a flood plain, but non-wetland soil.

Mr. Schawecker: It is strictly an employee parking lot, not a public parking lot. We also added mounded areas, which P&Z was happy with, and created planting areas to buffer the parking lot from Lane St.

Chairman DaSilva: So the lot really isn't visible from Lane St?

Mr. Schawecker: It is hardly visible. The Chaffee's that live across the street are happy with the way we buffered it.

Commissioner Zahornasky: I think at the time this came in we were also dealing with the buildings further up the street. I remember there was a lot of discussion of where that lot was going as well as discussion of the wall. In order to go on the other side of caution as far as allowing the construction of the building on the other side, we were looking to soften this up as much as we could. Not so much that we needed a gravel parking lot, we were just trying to make it more of a setting where you didn't notice it. I think now with the mounds and the buffers in the front, I think they accomplish that whether it is gravel or asphalt. I think another reason we did that is we didn't want too much runoff going towards the river. Obviously that's not going down there anyway.

Chairman DaSilva: I think that was the main concern at that time.

Commissioner Szkola: I would like to see them explore an alternative, like turfstone, or something like that. I am not for the asphalt.

Chairman DaSilva: Have you looked at other alternatives that John mentioned?

Mr. Swift: I am familiar with turfstone and they are mostly used in areas where you are going to park cars once a week. I have seen the turfstone used at where we are putting up a church in New Canaan. It is 20 years old and the turfstone is in an area where it does get traffic on sort of a semi-daily basis. It does get packed down that you have in the gravel. They work, but I am not sure it would work in this particular application. The other issue with the porous pavement, I will have to confess, I don't have much experience with that. What I have heard is that the further north you go with the sanding, it is less effective because it also clogs up. It does better in the south. All I can suggest is that we get this as large as it needs to be for the Commission to be comfortable. There are probably some other mitigations we could do. If you take a ride down there you would see a lot of grapevines. This was a disturbed area previously. Probably to balance out the pavement we could do some landscaping and some naturalized plants. Maybe take some of the grapevines out.

Chairman DaSilva: I am not concerned with the pavement versus what is there now because what is there now is not functioning that well. With the pavement and putting the water into the basin it will accomplish the same as what we have with the gravel lot. Obviously the basin will need some maintenance on a regular basis to take out the silts, but there shouldn't be that much. That basin for me will not be big enough.

Mr. Swift: We have room to improve that.

Commissioner Szkola: I am not necessarily against asphalt, per se, but we keep putting into this stream. It's one more straw on the camel's back.

Commissioner Zahornasky: I don't think there's much difference between the gravel and what is there now and the pavement. We are not getting any percolation. It might be better to capture it.

Commissioner Szkola: I think if we pick up the gravel, put a filter fabric and maintained it every few years. If that's what you have to do, that's what you have to do; to keep it nice. That's the way I feel. It's just another straw; how many are we going to keep adding?

Chairman DaSilva: Do you want to take the time to consider some other options before the Commission makes a decision?

Mr. Cook: You took some shots in the lot itself, but has anyone gone down to do some samples to see what you have under the top layer of what is being driven on, maybe 6-8" down? If there is a base of stone that is still clean, that would give you one piece of information. If that stone is completely clogged up or the fine has worked its way up, because the Pootatuck is a very fine sandy soil, they can clog the stone.

Mr. Swift: Pumping is the term. If the soils are wet and there is water in it, it pumps the water up from underneath. That is why you can't pave.

Mr. Cook: It might take someone to take a pick to go through it; not a mass excavation, but a couple of places around the lot.

Mr. Swift: It hasn't been done. It's 6-8" of a roadbed. I think that is what we are going to find. I don't think we can fine-tune it to see what layer has what kind of a find.

Mr. Cook: It would be interesting to see what is under there.

Commissioner Szkola: Do you have a zero net increase in runoff?

Mr. Swift: We can do it. I would contend that even replacing the gravel that this kind of system will be more effective than the gravel. There is no way to escape; it is not going to run off. If we were to replace this and 2-5 years it stops working again, it is going to start flowing in areas you don't want it to.

Commissioner Zahornasky: My only concern is what once was an overflow parking lot is now getting a lot of use. If you leave the gravel or you put in these pavers, we are putting in salts and oils from the cars into the soil that isn't going to percolate down. Wouldn't it be better to capture in the detention basin that you can control.

Commissioner Szkola: I think that would be a better solution.

Mr. Swift: There is two kinds of grasses intended to capture everything. We have no problem with John's suggesting about enhancing it with a few other plants.

Commissioner Beattie: Also to be concerned with the salts that you would be using in plowing.

Chairman DaSilva: You will have the ability to not only collect the sediments and oils, by adding the basin with a sump at the entrance to the basin, will it help at all with the oils?

Mr. Swift: We can't get deep enough. What we can do is what is called a 4 bay. We can make it a 2-stage system. There is an original flow in and a lot people recommend that you dig down until you hit water. If there is water in it you turn over the water. We could make it a 2-stage system pretty easy.

Commissioner Zahornasky: In cases like this we should be more concerned with the quality of the water.

Chairman DaSilva: So do you have the room to design a basin big enough to capture the water for a 50year or 100 year storm?

Mr. Swift: Yes, we do. There is extensive landscaping on both sides of the apron into the lot. That was P & Z's main concern and I think they are happy with it.

Commissioner Beattie: Are the plantings mostly evergreens?

Mr. Swift: I think it is a mix. There are shrubs and a few ornamental trees.

Chairman DaSilva: I would suggest, if someone were to make a motion to approve it with the following: Subject to coming back to us to review it and make sure the engineering is correct and to expand the basin size to accommodate either a 50 or 100 year storm. The key is not the storm, but the first 2-3" water, the first flush. The other would be for John to check the landscaping on Lane Street to make sure that it is sufficient to hide the parking lot, in conjunction with P & Z. The concern with P & Z was the house across the street. They wanted to make sure that if there is going to be a parking lot that there should be a screen.

Commissioner Szkola: Planning & Zoning required a gravel parking lot to soften the appearance of a commercial structure. If that was their intent, let's get a letter from them confirming that.

Commissioner Beattie: It has been designated as a scenic road. We don't want to make it look like there is a big establishment.

Mr. Cook: As Rick Schultz stated, it was their intent to keep it gravel and they would still probably have interest even if there is a favorable action of the Wetlands Commission.

Chairman DaSilva: Check with Rick to make sure their concern about the screening meets their satisfaction.

Commissioner Szkola: In permit 90-21, he was already supposed to take the necessary steps to control stormwater discharges to prevent pollution into the wetlands and watercourses. The argument to do this to do this to prevent pollution doesn't hold water because otherwise he is saying he is not confirming holding to the agreement of 1990.

Chairman DaSilva: I believe that the way that they meant that, and obviously approved that, is by staying with the gravel parking lot and not putting any drainage into the wetlands or Means Brook, we allowed them to whatever oils or whatever came from the cars to seep into the soils. We didn't require them to put any drainage. By allowing what we are allowing now we are not doing anything different as far as controlling the quality of the water. We are doing basically the same thing.

**Commissioner Zahornasky made a motion to approve application # 04-35, subject to creating a larger basin, engineering verification, to handle either a 50-100 year storm or a 2-3" first flush condition. The wetlands coordinator is to check the landscaping along Lane Street for proper screening as an aid to Planning & Zoning. The applicant will incorporate some sort of 4-bay or 2-stage measures and also will agree to provide additional plant material beside the grass stock. There needs to be concern of the salts used during snowplowing. Commissioner Wilson seconded the motion. All were in favor, except Commissioner Szkola. MOTION PASSED.**

2. After-the-fact PERMIT – APPLICATION # 04-36, MONTEIRO PROPERTY – 120 THOMPSON ST. Proposal to construct new gravel driveway and shed within regulated setback, remove debris from regulated area and remove deposited fill from regulated area.

Chairman DaSilva: This came in last month for acceptance and there are people here tonight that wish to address the Commission. I have a letter submitted to the record. There are also letters from Planning & Zoning to the zoning enforcement officer, but that has no bearing on what we are doing this evening.

Joe Pereira, Pereira Engineering, Shelton

Mr. Pereira: I am representing Mr. & Mrs. Monteiro who purchased the property about 2 years ago and at the time was unaware that they had wetlands. Since then, obviously, have become aware. Mr. Monteiro has done quite a bit of work to his property including stonework. He is a mason. He has a pick-up truck that he uses for work and right now parks it in his driveway. His intention is to put in a gravel driveway to access a new proposed 12'x20' shed. The reason for a gravel driveway is because it is in the regulated area and wants to reduce any impacts. The benefit of a gravel driveway is that any stormwater will be filtered prior to entering the wetlands, which, if nothing else, will improve the water quality upstream of the wetlands.

Commissioner Szkola: Why is the shed at that location, why not at the end of the driveway?

Mr. Pereira: They do own an acre of land and the wetlands bi-sect the property in two.

Chairman DaSilva: Is the septic system in the back?

Mr. Pereira: Yes, it is in the back. I know staff did present two alternatives last month. We have since done a site walk to review those. One alternative was to put the shed here (pointed out). Mr. Monteiro has since planted a significant garden. He does not prefer to put it there. The other alternative was to locate it in the small area of yard that he does have.

Chairman DaSilva: John and I did walk this site. I believe you told me that part of the wetlands would have to be disturbed.

Mr. Pereira: If we tuck it in the back, and this is the limit of the wetlands here (shown). We are definitely within the regulated area and much closer if we were here, on the south side. In an effort to come up with something that would suit Mr. Monteiro, he has agreed to install an 18" stacked stonewall to delineate the wetlands on the north side and also on the south side to demarcate and limit any encroachments. He has also agreed to install a footbridge, similar to other ones that have been done in town and I am sure the Commission is happy with. The other idea tossed around was that he would have to do all onsite improvements, including the wall, prior to being issued a building permit for the shed.

Commissioner Szkola: Has he corrected any of the previous violations on the site?

Chairman DaSilva: The only wetland violation that existed, and John can confirm that, was at the beginning of the street, where there was 6-7' of gravel that he had put in the wetland. He has agreed to pull that out and I believe he had a trailer and pick-up truck in there. The zoning issues I am not sure have been addressed.

Commissioner Szkola: Did he pull the materials out?

Mr. Pereira: Yes, he did.

Mr. Cook: When I was out there, a week previous, I would say there is a very small amount of material (1/2 yard) that was still there. There was material that had been removed.

Chairman DaSilva: The driveway that you are proposing to put gravel on; that is an existing roadbed, isn't there gravel there already?

Mr. Pereira: To some degree there may be some as a base. I have some pictures to show. The actual roadbed is shown, which is already sort of delineated through the site. This roadbed was established prior to this owner. The other pictures show site distances looking east and west.

Chairman DaSilva: Has the City Engineer approved the curb cut for the driveway in that location?

Mr. Pereira: It was submitted; I have not seen the latest letter.

Mr. Cook: A letter came in this afternoon from the City Engineer. I will read it whenever the Commission wishes and I do have some comments.

Mr. Pereira: Showed and explained each picture.

Mr. Cook: The letter from the City Engineer reads as follows, dated September 8, received September 9:

*Dear Mr. Cook:*

*This office has reviewed the above referenced application to construct a new gravel driveway with a new curb cut on Thompson Street. The location of the proposed driveway/curb cut is not acceptable since it is only 40' from the North Princeton Drive intersection. Our department would rather see access to the proposed shed from the existing driveway rather than a new curb cut. If the Commission does not desire a wetlands crossing from the existing driveway to the proposed shed, then we will reluctantly consider a new curb cut on Thompson Street. I recommend that the proposed curb cut to be shifted 35' east, farther away from the North Princeton Drive intersection. This office will also entertain a new curb cut location east of the existing driveway curb cut as long as it has a minimum separation distance of 50'.*

*Very Truly your,*

*Robert F. Kulacz, P.E.*

*City Engineer*

I did provide the revised plans that Joe Pereira had submitted to the Commission, received on August 27. What the City Engineer is saying, the original driveway was to come underneath the guide wire on N. Princeton, which was rejected outright. Since that time it was shifted to this side. Due to proximity to the corner, he would prefer to see the driveway go across the wetlands. Then he goes further to reluctantly consider a curb cut 35' to the east, which he really meant to say, to the west.

Chairman DaSilva: Show me where the 35' would put you on that plan.

Mr. Pereira: We can come in and sort of hug the wetlands and then come down. My thought for changing the driveway location is this is a "T" intersection and any traffic coming out has only traffic coming east and west. Any traffic on N. Princeton has a stop sign. You can see from the site distance there is plenty of room to see oncoming traffic coming out of the driveway as well down the street.

Chairman DaSilva: The impact of that road that exists and where he is proposing to put the road, his buffer impacts, what is the closest that he gets to the wetlands?

Mr. Pereira: The closest from the edge of the gravel would be 16'. I didn't see any need to extend the wall all the way out.

Commissioner Szkola: What is the quality of the wetland to the south of the garden?

Mr. Pereira: I believe the wetlands end there.

Mr. Cook: It is the start of the wetland itself. If you visualize it as a bowl at that location where it rises to the north, the west and to the south, and forms in this location.

Commissioner Szkola: I would rather entertain an application, the size of the shed is 12'x20', and see them take out 150 sq. ft. of wetland at that corner, if he is concerned about his yard, let him expand his yard, and then put the shed at the end of the driveway. Then we don't have to have a driveway all the way down the edge of the wetlands. Then you wouldn't even be looking at a curb cut or anything else.

Chairman DaSilva: So you are saying you would rather have whatever square footage necessary to build the shed, to fill the wetland. He is really not disturbing. The road is there. If you go to

the wetlands, he is going to have to dig up the wetlands and fill with gravel so you would have a disturbance. There is an alternative.

Commissioner Zahornasky: What about to the east of the driveway where there is presently a stonemason wall?

Commissioner Szkola: Then at this side you are away from the neighbor's concerns hopefully.

Side B

Chairman DaSilva: I just don't want to propose that and have the other neighbor come in.

Commissioner Szkola: I am not proposing, I am just willing to look at something like that. His concern was yard space. You said the reason he didn't want to put it at the end of the driveway was there was only "x" amount of yard space. If I give you "x" amount of yard space in exchange for the shed being at the end of the driveway, he can still keep his garden. Doesn't that seem logical? I'm not proposing.

Commissioner Beattie: I also question the fact that it is 500' away and human nature is that you are not going to want to walk around to get to it. It is going to be right through the middle.

Mr. Pereira: You are absolutely right; that is why we are proposing a footbridge for the crossing. The distance here is all but about 100'. The length of the driveway might approach 500'.

Commissioner Szkola: I know what you are saying that is much easier to have a shed 20' from the edge versus 100'.

Commissioner Beattie: It's on top of the neighbor's property. They want to have this shed and the logical place is to have it closer to the house.

Chairman DaSilva: Let's not make that decision because on appeals we will lose the case. He can be 5' from the edge of the property line. That's zoning, not us. He can ask to put the shed anywhere. The area that he is proposing was logical to them because of the existing road and all they have to do is put the shed at the end. There is no disturbance to the wetlands but there is to the buffer but that disturbance has occurred already because of the road that was already there. If you want to give them the right to disturb the wetlands to build the shed on the other side, that is fine, but now you are allowing disturbance that is not on this application. I don't have a problem with that.

Commissioner Szkola: Right, I said he can come in with any application and I will entertain it.

Chairman DaSilva: It is not fair to say that an alternative is to put the shed on the other side and I will allow you to fill in 150 sq. ft. as you said, and then he comes in with it and then you say, no I don't like it, I'm turning you down. Let's not make suggestions that we might not approve. What comments do you have John?

Mr. Cook: There is a letter here from Aquarion, addressed to Alvaro DaSilva, Chairman. The letter is dated 8/31/04, received 9/02/04. The letter is as follows:

*Re: Proposed Shed and Driveway Construction at #120 Thompson Street, Shelton (Monteiro Property)*

*Dear Mr. DaSilva*

*In compliance with Connecticut General Statutes Sec. 8.3i and 22a-42f, the Aquarion Water Company received plans of the above referenced proposal on August 20, 2004. The site is within the watershed of Aquarion's Far Mill Reservoir. The Aquarion source protection staff has completed a plan review and site inspection to determine the extent of potential impact on water quality which might be associated with the proposed activities at this site. The following comments are provided for your consideration:*

- 1. The erosion and sedimentation controls depicted on the site plan for the development of this property appear to be adequate. Aquarion will make no requests at this time for additional erosion controls for this project but will visit the site periodically throughout the construction to ensure that construction-related water quality problems do not arise.*
- 2. Aquarion requests notification by the commission of its decision regarding this application. If approved, Aquarion requests notification by the owner prior to the start of any soil disturbing activities at the site.*
- 3. All contractors and their employees should be informed that they are working in an important public water supply area. No equipment or machinery should be refueled, maintained or parked near wetlands or in areas where storm runoff can wash pollutants into a watercourse. Fuel or other hazardous material spills must be reported immediately to the DEP Oil and Chemical Spills Unit (860-424-3338) and to Aquarion (203-452-3500). The phone numbers of both agencies should be prominently posted at the project site.*

*Aquarion appreciates the opportunity to comment on this project, and we thank you for your help in protecting the public drinking water supply. If you have any questions or if I may be of further assistance, please feel free to call me at (203) 452-3508.*

*Sincerely,*

*Brian T. Roach*

*Senior Environmental Analyst – Source Protection*

Chairman DaSilva: What is the purpose of the shed and what is he going to keep there?

Mr. Pereira: It is for storage and he will park his pick-up truck inside the shed.

Commissioner Zahornasky: Don't you normally consider where you park your vehicle, a garage and not a shed? They are classifying it a shed but in reality it will be a garage.

Commissioner Szkola: Can we limit it to just a pick-up truck?

Commissioner Zahornasky: I don't know. A shed is just for storage, not for parking vehicles. I'm just curious why you are calling it a shed and not a garage.

Mr. Cook: From the WCEO Comments\*: Since the August meeting staff has visited the site again along with the Commission Chairman, Applicant's Engineer, and Applicant. As a result of the visit the plan has been changed to incorporate a footbridge through the small wetland area to access the shed. With or without a shed the footbridge can be constructed with limited disturbance to the wetland area to access the rear upland portion. We reference the footbridge across a small stream along Maple Ave. several years ago. Additionally, the revised plan provides for the construction of several hundred feet of low stonewall 18-24" tall to demarcate the limit between the formal yard spaces and remaining protected areas. It was also discussed in the field that wall would be required to be constructed before any shed if the Commission deems the application favorable. The City Engineer while preferring the present driveway cut over an earlier version still has some reservation as to its location near the intersection. The Aquarion Company has submitted a detailed report with its recommendations and reservation regarding equipment storage or parking. The applicant has made several positive changes to the application to make the proposal more palatable and is commended for those efforts. However, by hard numbers staff suggests the alternatives discussed by the Commission at the August meeting still provide greater protection of the resource while accomplishing the fundamental goal of the applicant. The only thing I would add to the comments is that shed or garage, if you have support equipment for his operation, whether a truck or mason pump, that is further away from his house and if you have a leaking fuel problem, you could have that problem with your own vehicle, that is not to say that wouldn't exist either. If there is a fuel problem it is more easily noticed if it is closer to your home rather than walking through the woods.

Commissioner Szkola: I would like to hear from some of the neighbors.

Gabe Mari, 11 N. Princeton

Mr. Mari: My concern is that it is a garage, how close to the property is a garage supposed to be? A shed is one thing, a garage is another.

Chairman DaSilva: That is a zoning issue.

Mr. Mari: The application went through as a shed and it's not really a shed. Even Aquarion is thinking it is a shed. There is something not correct, the correct word was not used.

Chairman DaSilva: For us it wouldn't make a difference but for Zoning it might because of the site line requirement. For us, it's the impact on wetlands, no matter what it is for.

Mr. Mari: There again, if it's a shed you don't have a vehicle there.

Chairman DaSilva: Let me ask this, if it's a shed and he parks a vehicle in front instead of inside, and now it's a shed with a vehicle parked in front. It's a matter of semantics and is a Zoning issue. He could reduce the size of the shed so he can't park a vehicle inside.

Commissioner Szkola: I disagree with you there. We look at a garage differently. Down on Riverdale we addressed it. You can have a garage, and we have asked this before, are you going to change oil, etc? Are they going to pour a foundation?

Chairman DaSilva: Right, that is why I asked to find out what was going in there, and what was going in the garage?

Ken Chirsky, 5 North Princeton

Mr. Chirsky: Having reviewed the prior application, the fundamental reasons for denial initially are not addressed here. The fundamental issues are the encroachment, 500' driveway, unclear usage of the shed, and much more logical practical alternatives. Surely it would apply again as it did last month. I think there are a lot of things that are misstated on the scope of the application, as evidenced by repeated violations and cease and desist at this property. There are vehicles regularly stored on the property are commercially plated dump trucks and excavation equipment. That has been evidenced in past issues.

Commissioner Szkola: Has it been evidenced by Planning & Zoning?

Mr. Chirsky: Yes. Violations of trailers, tractors and multiple commercial vehicles, registered and unregistered. I have a picture of it to submit.

Chairman DaSilva: Zoning doesn't allow this in the driveway?

Mr. Chirsky: We just want to clarify the statement of a dump truck, that this is a commercial dump truck. It's a commercial dump truck that they want stored back there. This notion of an old road bed I think that is 80 or 100 years ago we think is really irrelevant at this point because in fact as this photo evidences that road bed is the wettest portion of the property. There is standing and running water.

Chairman DaSilva: Excuse me, you made the statement that my enforcement officer, I don't want you to make false statements.

Mr. Chirsky: In my opinion it's irrelevant.

Chairman DaSilva: You said that roadbed is the wettest part on the property, which is not true. Ask the enforcement officer I think he knows.

Mr. Chirsky: Our opinion is through the ponding and running of water and personal observation. As far as the neighboring properties, the picture up there is right up against the fence. The site and visibility is really an issue that wasn't shown in the pictures. There is obvious past precedence of disregard of wetlands and zoning by this applicant. There has been lack of remediation when you talk about the cleanup of the corner of the illegal cut in the driveway and storage area. The rock still remains. There is dumping of sinks, mufflers and debris into wetlands that remains. There is also a picture of that. It was dumped by the homeowner. The stonewall work we talk about. For nearly two years the town's right of way has had stone, rock and rubble stored on the town right of way. That says something how this property is treated. It is basically a construction work area with stone and rubble that has been sitting on the front lawn for two years that we can't seem to get rectified. We are told that a stonewall is to be built. We think the past record needs to be taken into consideration and the actions that were going on; the ponding and running water in the exact site of the shed and the illogicalness of the shed and the size of the vehicles that are regularly stored and taken on and off of the property. Regular pick-up trucks are there but there are also commercial dump trucks, backhoes, commercial trailers that have been stored there a number of times. There is a concern of the site distance at the corner. It is a school bus stop with very poor visibility pulling out of N. Princeton. With a driveway cut right on the corner seems very impractical and sets the town up for safety issues and accidents that occur with commercial vehicles coming up to an intersection where a lot of kids congregate for the bus. We ask the Commission to find as they did last month in a very reasonable and practical manner to suggest other options that are inherently more appropriate and practical. I would like to enter in, in writing what I have summarized, with pictures of the standing and running water at the site and the dumping of the debris in the wetlands that still exists today.

Mr. Pereira: Mrs. Monteiro is here tonight and she can speak to the issue. As noted in the letter from the residents, the whole issue of the sinks and the mufflers, that was debris that was left from the previous owner, not the resident. There is talk of the stonewall, the applicant is a mason, and his intention is to build the wall. It can be evidenced by the existing masonry on the site. He really is a craftsman and I invite you all to come and see it. The owner has done nothing but improve it since he purchased the property. I can certainly understand the, "not in my backyard", but this is a well-wooded area with white pines all around. Once the driveway is installed it will be out of site and won't be noticed. It will be gravel based on an old roadbed.

Mr. Chirsky: It is lightly wooded and clearly visible from Thompson and North Princeton when you pull in, as the neighbors can attest. The dumping of debris was witnessed by me upon a neighbor pulling in, so it is an incorrect statement that it was there. It was brought to the attention by zoning to remedy the situation and it was ignored. Basically this work was already done and it had to be stopped and trucks had to be removed without regard to an application in the past.

Jeff Lutheran, 8 North Princeton Dr.

Mr. Lutheran: My main concern is that I bought a house in a residential area and I want to keep it in a residential area. I paid a lot of money for my house. Having a backhoe, a commercial grade dump truck in a wetlands area that was done by the homeowner without any regard to follow the rules, bothers me. It shows the lack of adherence to rules. Further evidence is there is stone work that hasn't been done for 2 years and is very unsightly. I know maybe isn't in the realm of this commission, but it has been sitting there since June 22, 2002. The former homeowner was only there one month while I was there and the property has significantly degraded in my opinion. Outside of the one wall, I will admit that he does beautiful work, when he does it. The stones that have been on the town right of way for 2 years have weeds up to 3'. I also have concerns of the wetlands. In regards to the footbridge, can it handle the weight of a truck?

Chairman DaSilva: A footbridge is strictly for walking.

Mr. Lutheran: My question is all the commercial equipment going back there, isn't that going to be going through wetland?

Chairman DaSilva: We don't know of any backhoe going to be parked there.

Mr. Lutheran: As far as the comment about the pictures that were presented on behalf of the applicant. I rebut that. I sit on Mr. Chirsky's deck every weekend with my kids and I used to see the red dump truck. As a matter of fact, my daughter made a comment. I disagree wholeheartedly with this gentleman about not being able to see it. That was done this summer where you have more foliage. I can see the white porcelain sink with the chrome plating still in his back yard a couple weeks ago. I have serious concerns with several factors. Thank you for your time.

Pete Miller, 2 N. Princeton Dr.

Mr. Miller: Nothing personal against Mr. Pereira, but this is a small world. I knew the people that sold him the house. They didn't leave the sink; I saw when they left the house. Whoever dumped the sink, it wasn't them. Whoever said the former owner dumped the sink there, for lack of a better word, is a liar. The previous owner didn't leave the sink or any other construction debris. My concern is, and I know Mr. Monteiro is a mason, and has every right to have a career. He should have a commercial business in a commercial property not residential property. The purpose for the shed; one time it was for putting equipment, the next time it is for putting a pickup truck. A 12'x20' shed or garage, whatever technicality we are going to use, is that to store a trailer, if not a trailer, maybe a backhoe?

Chairman DaSilva: Excuse me; so we don't get into a lot of discussion about that, we don't deal with that. That is for Planning & Zoning. Address what issues deal with impacts on wetlands, otherwise we will be here all evening.

Mr. Miller: Ok, past practice in your own meeting of August 04, you mentioned he had a stone business. That's ok, as long as he doesn't use his residential property for his business. I don't use my property for my business. I know the property abuts water company property. There has to be an alternative site for a shed. I don't know why anybody would put a shed the furthest point from their property, next to someone's else's property other than the regard of, you know, I don't have to look at it everyday, someone else has to look at it. The owner has shown past disregard and continued disregard to inland wetlands regulations. The gravel, the stone parking area, where he left trucks parked, and backhoes and trailers. He still has not corrected those damages to the wetlands that was noted back in April. This is September. Construction debris piles are still on the property. He was told to remove that stuff and it is near wetlands as shown in the photo. Trees that were cut down on the wetlands have still not been replaced by Mr. Monteiro. The reason why there is a roadbed there now is that Mr. Monteiro created that roadbed by land-clearing the trees. Those photos are worth a lot, but they only show what you want to show. There were trees there prior. The roadbed might have been there but there were trees before he cleared them out. I believe that these new plans are an overkill just to put up a 12'x20' shed or garage. Nobody wants to drive 500' to park their truck, in this case you said a pickup truck. What is he going to do with the dump trucks on his property? He already extended his driveway; I don't know if he got permits for that. He extended it another 4-5' to park 3 extra vehicles adjacent to garage. I know that hasn't been brought up. I am worried about the safety issue. It is at intersection with a bus stop. The line of site for kids at bus stop is not that great. You have people coming down Thompson St. and a lot don't obey the speed limit. Coming out of that driveway at the intersection, down the hill, and I can just see it in the wintertime. Mr. Monteiro is pulling out with his dump truck, or whatever, and we end up with an accident and god forbid a kid gets injured. I just hope it's not because of me. He has been issued cease and desist orders by Planning & Zoning, Inland Wetlands, and seems to show a total disregard, either through phone calls and letters, because I can see from my house it is still there. The gardens in front of his yard, there is no reason why he can't move it. I have done it in my yard. There is no reason why he can't put the shed there. He has a lot of land in the back and can put a garden. He does have past practice of cutting trees down, he could cut more and put in his garden. I would like Mr. Monteiro to address the cutting down of the trees in the roadbed, but he is not here. He is

probably home now building that wall in the front of his property. My concern is you approve these plans, he hasn't taken care of the issues from April. If he's such a good mason, why hasn't he built that wall? It's more of a rock pile.

Chairman DaSilva: Can we stick to the wetlands?

Mr. Miller: Yes. He promised to build the wall next to the wetlands.

Chairman DaSilva: It has nothing to do with us.

Mr. Miller: Is he going dump a pile for the next 2 years? I have a question for someone on the Board. If this property was next to yours, would you want this next to your property? I don't think so. I don't want dump trucks, backhoes, trailers, stone piles and gravel piles and garbage in my neighborhood. I don't think anyone on this commission that wants to look out their house and see this every day. Don't tell me he is that busy he can't do that – we are all busy. Don't do plans unless you can start and complete them in a reasonable amount of time. He was told 6 months ago to take the gravel out of there. Soon there will be weeds to cover it.

Chairman DaSilva: If you don't have any new comments to make, that is enough.

Mark Bernatchez, 34 N. Princeton Dr.

Mr. Bernatchez: I would like to attest to the fact that right now the foliage is full and it is somewhat difficult to see some of this. A couple of years ago, as soon as I drove home I had a clear shot. I don't know what a 12'x20' shed, how tall that would be, but if I lived next door, I would be quite upset and be looking for alternatives as well.

Charles Ghione, 26 N. Princeton Dr.

Mr. Ghione: I don't want to comment any further; I think all the issues have been addressed other than to say is, when we saw this road coming in here, my concern is why couldn't they put the shed back in the area and leave the buffer as it was. I think that is why his neighbor put the fence up, to block it. I also don't think he should be running a commercial business in the residential neighborhood. Thank you.

Chairman DaSilva: Again, I don't know if he is or isn't running a commercial business. He is allowed to drive his truck that he takes to work, but that is an issue for Planning & Zoning. It appears that there are alternatives that possibly could be made to the plan and were suggested at the last meeting. I wasn't here at that meeting. They haven't looked at the option Commissioner Szkola about putting the shed on the other side and the Commission might entertain the option to disturb part of the wetlands to put the shed, or whatever terminology you use. My recommendation would be to perhaps the applicant explore other alternatives. What is the clock on this John?

Mr. Cook: October 16, without any extensions.

Commissioner Szkola: Right now I would vote no on it, based on the City Engineers report, first of all. I am not going to allow a driveway where a bus stop would be. The past record as far as what has been done with regard to the Commission, disregarding a violation to clean up. Nobody came here to lie to us, I'm sure of that. We should explore other options.

Chairman DaSilva: Let's be fair to the applicant. I believe them and I believe the applicant. Wherever the truth may lie, may be somewhere in between. I don't want to say anything about the applicant before this Commission.

Commissioner Szkola: I think we need to know what it is called, a shed or a garage.

Commissioner Zahornasky: The worst case scenario, the structure ends up somewhere in the vicinity, is there a way we can shift it closer to the wetlands. If there is a way to shift it and put in plantings so that the neighbors can't see it. The applicant would have to guarantee that. If the driveway was then shifted, like the City Engineer suggested 35', hugging that wetland area and where the bend is, take the whole bend up into the green area, then you could plant along that side. Now if you are coming down N. Princeton, with that plantings, you don't have that straight shot looking down to the shed. My preference is, I would like to see the shed some place else but the worst case scenario, if the commission chooses to leave it where it is, at least if we shift the driveway and landscape. That way you block off the site line.

Commissioner Szkola: I am against this whole driveway thing. We have been beat up on this Commission in the past. I would like to eliminate the opportunity for people to put backhoes and dump trucks on the driveway.

Commissioner Zahornasky: We still have to stick to our wetland issues. That other is P&Z.

Commissioner Szkola: If the driveway is in the setback, I don't want any backhoes parked. If I eliminate the opportunity, it's within my purview. That is where I'm coming from.

Commissioner Zahornasky: I don't like the location of the shed either but if we are exploring the alternatives, let's explore all of them. The City Engineer wants to move it, we can landscape so you don't see it and shift the structure closer to the house. Landscape along the shed area and down the driveway to the turn section.

Mr. Miller: Can someone show me where the gravel roadbed is? Not the dirt roadbed, the gravel roadbed, because it doesn't exist. It was created by trees cut down. It wasn't there 2 years ago.

Chairman DaSilva: It is Old Thompson St., an abandoned road on the city street maps. For the record, let's be straight.

Mr. Chirsky (I think): Referring to the pictures, showing the roadbed. Talking about the planting, you can't do any there because there are high trees and nothing would grow.

There was discussion of the elevation.

Commissioner Beattie: In the paperwork you gave us it reads that the undersigned requests a public hearing. Are you asking for that?

Mr. Chirsky: Yes, there is so much consternation. There is so much bewilderment and amazement not only from us but others. It is such a big issue.

Commissioner Beattie: You go on to say that before any approvals are granted. If you are asking for that you should make that clear.

Mr. Chirsky: We are asking for a publicly noted in the newspaper open hearing for the future, given all the problems.

Commissioner Szkola: They have to do that in writing, right?

Mr. Cook: There is a certain procedure to follow. One thing is, if it is a significant impact to wetland or watercourse, the commission can decide to schedule a public hearing. Also if they determine there is public interest for purposes of determining public interest that would be constituted by a petition of 25 signatures. Historically the Commission, irrespective of the public hearing process has always entertained an open dialog in their regular proceeding even though it is not technically a public hearing.

Chairman DaSilva: Based on the fact that we have already accepted the application is one issue that we have to deal with. Our hearings are posted in the paper. Our agenda is on the internet.

Mr. Cook: Our agendas are posted in the town clerk's office and the minutes are on the internet.

Mr. Chirsky: The Chairman said the newspaper; I'm unclear which newspaper.

Chairman DaSilva: The most critical aspect of asking for a public hearing is the impact on wetlands. The impact is on the buffer, not the wetlands and is minimal. We have allowed the public to speak and there will be another meeting here next month.

Commissioner Szkola: I think we are very fair and open. If you really want to appeal would be the only thing I think you would need a public hearing.

Chairman DaSilva: If we decided to have a public hearing, we would have to close this meeting where the discussion has taken place with you given input, they can appeal that decision also.

Mr. Chirsky: There is still one thing unclear. The initial application ignored the watershed property next door. It wasn't on the initial application. I don't know what the interpretation from the Commission is on the watershed findings, but they clearly state that they are not in favor of vehicles. Is it a moot point to further discuss with the watershed company talking about no vehicles or machinery?

Chairman DaSilva: Excuse me; if the water company had a serious concern, they would have sent a letter saying please deny the application. They sent a letter and we can send the plans to them again, but they have the plans and they reviewed it and satisfied with it. They stated they didn't want anyone changing oil or dumping oil. They are satisfied.

Mr. Chirsky: They thought it was a shed. They said no equipment can be stored or parked. If they are going to make it a driveway with a vehicle shed.

Commissioner Szkola: I am going to ask John to call BHC (Aquarion) for clarification.

Chairman DaSilva: (To Mr. Pereira) I think you should take a look at the application, and if you want to make some changes that is up to the applicant.

3. PERMIT – APPLICATION #04-37, SHELTON TECHNOLOGY CENTER – LOT 32 IVY BROOK LANE/ROCKY REST ROAD. Proposal to construct (2) commercial buildings of 190,000 square feet involving discharge of stormwater to a regulated area.

Mr. Cook: The agent for that applicant sent a brief report, which is in the Commissioners packet. They are still discussing various options with the City Engineer. No additional information is received relative to the August meeting and they requested the matter be tabled.

4. PERMIT – APPLICATION #04-39, EMHART TEKNOLOGIES – RIVER ROAD. Proposal to remove and restore contaminated soils within wetland and wetland setbacks.

Kimberly Clark, representing Emhart Teknologies

Ms. Clark: We are submitting an application to perform soil excavation in 3 areas, the Emhart retained parcel. In the original submittal we had improperly referenced some of the lot numbers. Emhart formerly owned roughly 30 acres along River Rd. In Dec. 2001 it was split into two parcels.

Commissioner Szkola: How did they split that, with a subdivision application?

Ms. Clark: There were multiple lot lines. There was the 54, 2 lot and the 53, 55 lot.

Chairman DaSilva: These were many years ago that this happened.

Ms. Clark: The 54,2 they sold off to Latex Foam International. Approximately one year later, Emhart again split the property and went through the subdivision process and sold the portion as 53,55 to Housatonic Way LLC. (Reference was shown). That extends to Butternut Hollow and Ivy brook (western property boundary)

Commissioner Szkola: The lower portion was split.

Ms. Clark: Now we have 3 lots.

Tape 2, Side A

Ms. Clark: We had submitted an application a couple of years ago to do minor excavation of some contaminated soil on this property and what was Emhart property, which is now Latex Foam. Since completion of that application we have had an on-going investigations of this property. All these boring locations represent samples we have collected on this embankment. The investigation was done to assess the sludge consolidation effort that occurred in 1985 by others. What occurred was, when Emhart operated here they had a sludge blow-down to this embankment area. During periodic flooding events the sludge was dispersed over the entirety of the embankment. In 85', 86' era, a contractor consolidated that sludge into an approved cap that exists today.

Commissioner Szkola: What kind of sludge was it?

Ms. Clark: Heavy metal and metal hydroxide sludge. They had plating operations. We monitor this cap and the ground water, which will continue to be monitored for many years. When they did the consolidation efforts they never confirmed that they captured all the sludge. This is why you see all the boring locations done by us. We identified 3 areas. One contains visible sludge. This is in a tidally influenced fresh water wetland. One is contained in an inland wetland and the other is in a buffer area. In total we have 310 cu. yards of material. All of this is on Emhart property. Because of the sales of the property, this has become land-locked. We continue to work with Latex Foam and the Mayor's property to access these areas so we can conduct remediation.

Chairman DaSilva: So you are looking for permission to go into the wetlands to remediate to remove the sludge?

Ms. Clark: That is correct. Currently these areas do not meet the Connecticut Remediation Standards regulations.

Chairman DaSilva: How deep do you have to go?

Ms. Clark: In one area is 4-4 ½', and the other area is probably only 4'. This one area is a tidally influenced fresh water wetland, which makes it very special.

Chairman DaSilva: How are you going to dig in there without allowing any of it to go into the water table?

Ms. Clark: The area of sludge is on an area that is less than saturated area of the wetland. There is a pond that was not supposed to be here when they did the consolidation efforts. This area actually is on land but in the area of the tidally influenced area. Our approach would be to come in through the Mayor's parcel, with his permission, which he verbally agreed to. With ground pressure excavation equipment, install silt fencing, and remove the material. We have it very well defined with the soil borings that we installed but we would still have to collect confirmatory samples. The excavation would be open for a few days before we could close it out.

Commissioner Szkola: Why the timetable now? Why is it being done now? How long did you know about it?

Ms. Clark: This investigation occurred roughly early-mid 2003. These were not the only areas that we had to address on the Emhart property. We have had other remediation activities on the Latex Foam property. This has not been address because we prioritized this area so that Emhart can step out of its agreement with Latex Foam more quickly.

Commissioner Beattie: Is the State in on any of this?

Ms. Clark: In order to do this work we have to submit an application to the Connecticut Department of Environmental Protection Office of Long Island Sound, which we have. We also have to gain approval from the Army Corps of Engineers. We submitted applications concurrently with this package. They have not rendered an opinion at this point.

Mr. Cook: Relative to the water condition that was out there. Some background information; at the time the mass consolidation took place at the area where the cap cell is, there was a rare plant growing. The goal at that time was to try and provide as wide a range of habitat so that the efforts of transplanting plants would be maximized for their survival. Hence, they created exposed soil, shallow to deeper water conditions. That was the reason to shape it in that fashion.

Commissioner Szkola: Did it work?

Mr. Cook: Apparently not. In your large packet there is an environmental study done.

Ms. Clark: We contracted our wetland biologist to map the area and to identify the flora species on the property. One of our main concerns was the rare sedge. There was a tremendous effort to save it but now it has been taken over by the invasive species (?).

Chairman DaSilva: You need to get approval from the Army Corps of Engineers, DEP and us, I think I would ask the Commission, subject to getting the other approvals that we would grant the permission to remove the sludge, as long as DEP is satisfied with the technique. If none of the sludge is in the water table, so you are not fooling around with digging and mixing it, it should be a simple process to get it out of there.

Commissioner Szkola: I would like them to pay attention to the timetable, so they are getting it out at the optimum time of year.

Ms. Clark: Our preference would be to do it in the middle of winter.

Commissioner Zahornasky: Does Emhart have plans to sell off that property?

Ms. Clark: It is likely they will retain at minimum this portion (shown) of it. I believe there has been some discussion about transferring a portion to Housatonic Way.

Commissioner Zahornasky: Does that need to be monitored also?

Ms. Clark: Yes, any remediation that is done has to be monitored. It would be Emhart's responsibility.

Chairman DaSilva: For them to get approval from DEP and the Army Corps of Engineers (ACE) would probably take about 6 months.

Ms. Clark: If it is possible, I would like to have your input so when I speak with DEP and ACE I can at least say that I have presented the application to you. If there is tremendous opposition to our approach, perhaps I can modify it.

Mr. Cook: From the WCEO Report: I know there is an old gravel access that was used to create the cell, however in areas 2&3 in the upstream, east portion of the site, that roadway doesn't go down to that location. How are they do be accessed? If the soil staging and decontamination is

on the applicant's property, right now it is shown on the property not owned by Emhart, if it is going to be on Emhart's property you are going to have to create a working pad. There is no grading shown or is there E&S. The application only refers to two parcels, neither of which is actually where the work is taking place. There should be an accurate map of the parcel configuration prepared so the parcel dividing and the deed filing that created that landlocked parcel. The applicant is Emhart and they are also the owner signing the application. They signed the application for two parcels of land that they have no control over.

Ms. Clark: In terms the first comment; the roadway that does exist would provide us access to the areas with a small piece of machinery. I did do a site walk this week. This road would require a small amount of clearing of saplings. It would be capable of coming along the toe of the slope to access the other areas without re-grading.

Commissioner Szkola: How would it be removed?

Ms. Clark: It would be removed in reverse. It is a small amount, 130 yards. It would be a small loader to transport the material.

Commissioner Szkola: Where would it go eventually?

Ms. Clark: Emhart has a list of approved licensed disposal facilities.

Commissioner Szkola: My knowledge of heavy metals is that they don't move through the soil.

Ms. Clark: In particular, when they are bound with sludge. We don't see tremendous mobility.

Commissioner Szkola: Would it be better to leave these things? If you are going to have a capped site and retain ownership of the property, I just changed my opinion. Why not just leave it be and let it go back to nature and donate it to the nature conservatory and be happy.

Ms. Clark: The Connecticut remediation standards are developed on two levels. One is to address pollution and ground and surface water and the other is to address pollution and soil. You certainly can leave contaminates. Say if you wanted to use this as a nature area, there would be issues of allowing human exposure to the metal contaminants. They are above what they call the direct exposure criteria. That is what drives us to remove the material.

Chairman DaSilva: Are you saying that under the remediation rules you are required?

Ms. Clark: That is correct. Emhart entered into a voluntary program to investigate and remediate this property. This has been done in phases over several years. This is one of our final phases. There are other options, which are engineered controls, where you could cap it and leave it in place. That would require a tremendous amount of disturbance in each of the 3 areas. Removal of the small amounts is really the most prudent approach with the least amount of disturbance.

Commissioner Zahornasky: It is not unusual in this type of project to find additional pockets of things that that associated with it.

Commissioner Szkola: I still think if it were not harming anything I'd want DEP to question.

Ms. Clark: They would be harming because it poses a human health risk as they exist. I can provide you with a DEP citation and remediation standard. That is what drives us.

Commissioner Zahornasky: You could forward your questions to DEP and ask if it is necessary to remove.

Mr. Cook: So on the access you are going to use a loader going back and forth, so there is no additional grading needed. (Ms. Clark agreed). The staging area is still going to stay on that piece. (Ms. Clark said they have verbal approval from Housatonic Way). Since work is taking work on that parcel the proper thing would be to get written approval from that property owner on the wetlands application. The third thing is would you be able to provide the map that actually exists out there?

Ms. Clark: That is what this map represents.

Mr. Cook: Unfortunately it doesn't. (Pointed out the differences).

Ms. Clark: I can submit another 11 copies of the updated map.

Mr. Cook: At least two for the office. It would be up to the Commissioners if they would want one.

Commissioner Szkola: I would like one for my packet.

Ms. Clark: I have also made some edits to our original submittal that reflects some of the comments you have. I have them to submit to the record tonight.

Chairman DaSilva: I think the way to handle this is to make a motion to approve the removal and remediation that has been submitted to us subject to the approval from DEP of the procedure and Army Corps of Engineers. Our approval will not become effective until those approvals are obtained and submitted to our office. In order to satisfy Commissioner Szkola, a question should be presented to DEP if it is absolutely necessary to remove these heavy metals or if it would be better to encapsulate them and leave them on the site. Also with the conditions in regards to the site plan.

**Commissioner Szkola made a motion to approve Application # 04-39 subject to the approval from DEP regarding the procedures and from the Army Corps of Engineers. We need to receive a letter from the DEP verifying that the most prudent alternative is to remove the contamination. The applicant is required to provide an accurate map of the parcel configuration. Our approval will not become effective until the approvals are obtained from the DEP and the Army Corps of Engineers and are submitted to our office. Seconded by Commissioner Zahornasky. All were in favor, MOTION PASSED.**

5. PERMIT – APPLICATION #04-40, MOUNTAIN LAUREL RIDGE (Re-subdivision parcel 5 and adjacent land) – INDEPENDENCE DRIVE. Proposal to construct 4-residential dwellings involving driveway construction and grading within and adjacent to regulated areas.

Mike O'Bymachow, Land Surveyor

Mr. O'Bymachow: I am here tonight for this proposal for a 4-lot subdivision off Independence Drive. (Reference was shown of the parcels). We have already been through conservation. The city didn't want to take ownership of the piece because of the bulky waste, soil sponge.

Commissioner Szkola: You have already been to Conservation so it must be good.

Mr. O'Bymachow: We are proposing the 4 lots (pointed out). The wetland areas were pointed out. We are proposing on lot 4 is a driveway with a wetland crossing and infringing in the wetlands in the referenced area. For two other lots we are proposing another driveway. The reason we had two driveways next to each other is to try and lessen the impact on the wetland. We are proposing a 48" rcp piping to handle the stream on both locations.

Commissioner Szkola: In your opinion, is it a high quality wetland?

Mr. O'Bymachow: It is almost like a red maple swamp. There is a steep slope coming into the site. For grading purposes we have to put a retaining walls on both sides to get access to a parcel. For lots 2 and 3 we are proposing a 1 to 1 riprap slope.

Chairman DaSilva: I am sure you have done some work sessions with P&Z, are they preferring to have 2 curb cuts on Independence Drive instead of one?

Roger Spinelli, 90 Soundview Ave., applicant

Mr. Spinelli: To answer Chairman DaSilva's question, I agree. I would think it is more prudent to have one driveway. For right now we are going with this layout but we will listen to your opinion. I think P&Z will concur with you.

Mr. O'Bymachow: I thought it would be less impact.

Chairman DaSilva: If you eliminate that driveway and put it on the one for lots 2 & 3, at that point, it's a common driveway.

Commissioner Szkola: I would rather see a common driveway.

Chairman DaSilva pointed out what he proposed as an alternative. Whatever side has the least impact is what you should go with because I don't see P&Z allowing two curb cuts. I would prefer to see one driveway.

Mr. Cook: To the direct impact you have the elimination of nearly 50' of 48" pipe.

Commissioner Zahornasky: Can you have 3 lots on one driveway?

Mr. Cook: You can have 4. It has to be 20' wide.

Chairman DaSilva: So move this driveway to the other side and make it 20", figure if that is the least impact way to go and then come back with it.

Mr. Cook: That pretty much covers my whole report. In the last paragraph, and doesn't directly relate to the application, but lot 1 is shown directly on top of the bulky waste landfill. The monitoring wells that were installed with this closure are not shown and should be added to the plan. The construction on lot 1 should not occur until a DEP endorsed plan for reworking the bulky waste landfill is prepared. That is right at the crown of the sponge rubber.

Mr. Spinelli: You say the DEP. We already have DEP and EPA and have recorded it. It is a clean bill of health. We will locate it. Where we are going to put this house is no sponge rubber. I will show it on the map.

Mr. Cook: The as built that we have submitted to the Commission, in 1987, for the consolidation of the sponge rubber, and the house is on the rubber.

Chairman DaSilva: Ok, so that is the only impact on the wetlands; everything else is off the buffers of the wetlands.

Mr. O'Bymachow: The only infringement we are showing is 50' from wetlands, with no grading.

Mr. Cook: There are some small encroachments for grading and also some discharge areas. All the erosion controls are consistent with past practice and all the erosion control plans do have details.

Chairman DaSilva: Obviously these erosion control plans would have to be in before you begin. My recommendation is that the Commission makes a motion to approve this application subject to resubmission with one single driveway that has less impact than the two driveways to be approved by John.

**Commissioner Szkola moved to approve application # 04-40 subject to resubmission showing one driveway for the 3 lots that has less impact than the proposed two driveways, to be approved by John Cook. Seconded by Commissioner Wilson. All were in favor, motion passed.**

### C. NEW BUSINESS

1. PERMIT – APPLICATION # 04-41, BROWNSON COUNTRY CLUB – 15 SOUNDVIEW AVENUE/LANE STREET/OLD SHELTON ROAD. Proposal to excavate a pond within and adjacent to wetland regulated areas.

Chairman DaSilva: I have to excuse myself since I am a member of the Brownson Country Club. Commissioner Zahornasky will take over.

Jim Swift, Landscape Architect, Civil Engineer

Mr. Swift: This is for acceptance and I will be brief. We are having a little problem with our drainage on the 9<sup>th</sup> hole. This is a photo that was taken today. We would like to excavate a new pond in the location of the poor drainage. The wetland runs along the side of the hole. As you can see from the photo it has been mowed and not in its natural state. The vegetation that is along the watercourse, which is actually a ditch, is veracious material, depending on the greens keeper, it is sometimes mowed flat and sometime a little growth is allowed. In keeping with what we did on the 4<sup>th</sup> hole on the front 9, we are proposing as we excavate out the pond it will be exposed pond as you are playing in one direction. On the other side we will put in shallow growth wetlands plantings similar to the 4<sup>th</sup> hole.

Commissioner Zahornasky: The pond that you show on the top of the photo, that is adjacent to the condos? It seems in recent years it has gone up in elevation.

Mr. Swift: We do have a 12" pipe that we have to replace as well. We will maintain the water level. We are going to measure where the water is now and set a weir at that point.

Mr. Cook: The shot that you took, where is it looking from and to?

Mr. Swift: (pointing out). The puddle you see in the photo is where we would like to make a lot deeper.

Commissioner Zahornasky: Do you need permission from the association for that structure?

Mr. Swift: No, we have to be careful. The person who originally built the condos and he wanted to excavate out the pond and knew the club would never do it so what he did was to get the club to sell him the pond. We have to be careful that we don't cross the property line when we put that structure.

Commissioner Zahornasky: When you set that elevation, I know that some members of association that they were saying the elevation of the pond was higher. Take a look at the pond area and the vegetation and see if you can tell if over the years it hasn't gone up.

Mr. Cook: I was recommending receipt for review. As detailed by Jim Swift, the last application for the pond was very successful, by the 4<sup>th</sup> hole. The wetland portion of the proposed pond is stated to be planted with emergent wetland plants. One possible concern is the fact the proposal calls for a water surface 3-3.5' lower than the easterly side of the wetland. Staff raises the question that the wetland will be further dewatered from that which was done in a previous channel digging operation. The necessity of the request should be considered as well as a consideration of potential reconfiguration or shifting of the pond slightly further from the wetland. This is so that the shelf would be adjacent to the wetland. (Pointed out to Mr. Swift).

Mr. Swift: There is a fairly decent pitch in this watercourse. We are going to place a weir to hold the elevation. That kind of sets the elevation of the whole water surface. We can't make the water surface higher to protect the wetlands because it would be too high and not accomplish what we want to accomplish.

Commissioner Szkola: What do you want to accomplish? To drain the fairway?

Mr. Swift: We are going to lower the water surface of the fairway and we are going to do it by creating this weir and digging it out. We know the water is there. The elevation is carefully chosen.

Mr. Cook: If you have a fairway elevation of 239 but instead of having the water at 235, nominally, and the wetlands was at 238-237, if you went for a water surface at 236 if your fairway is at 239, that would still give you some 3' from the fairway down to the water level at the same time it wouldn't be dropping the water level so far below the wetlands.

Commissioner Szkola: In the old days they used to have the wooden weirs that were adjustable.

Mr. Swift: It is set by the elevation of that point.

Commissioner Szkola: what I am saying is if you put in an adjustable weir in with some boards and when it is dry you can let the water back into the wetlands and when you want to drain it, remove a board. Does that make sense?

Mr. Swift: We never want to drain it. We want to maintain this water surface always. We will be doing some wetland plantings and we want to maintain it. We are creating an enhanced wetland. Its mowed lawn now as far as habitat.

Mr. Cook: As far as habitat but as far as chemistry itself, if you de-water the wetland then it ceases to have those processes taking place in the soil. I noticed that the fairway itself is at 242 and with the water surface at 235, that is 7' difference.

Mr. Swift: No, it's 240 and then it gets lower. It is going downhill.

Mr. Cook: It is 6 ½' between the core of the fairway.

Commissioner Szkola: Would you take a walk out there with Jim, John? Then give us your evaluation.

2. REVISION – APPLICATION #04-42, THE VISTAS AT WHITE HILLS – EAST VILLAGE ROAD/WABUDA PLACE. Proposal to fill and pipe regulated area for road construction not previously part of original subdivision.

Commissioner Szkola said he would abstain from this application as he is a member of the Land Trust Board.

Jim Swift for applicant, Toll Brothers

Mr. Swift: We would like to defer this item to October meeting.

Mr. Cook: As far as the impacts, for the record, the impacts are consistent with what was discussed by the Commission several months back. There will be a retaining wall to restrict and minimize the disturbance to the wetlands with the crossing.

3. PERMITTED USE APPLICATION #04-43, LATEX FOAM INTERNATIONAL – 510 RIVER ROAD. Proposal to reconstruct a drainage outfall area which discharges to a regulated area.

Mr. Cook: I don't see anyone here. It is submitted as a permitted use application to repair an erosion control problem. They are submitting it under section 4.2a to get permission from the

Board to do minor work to control erosion. They do have a site plan. It is a discharge to the river but the whole outfall from Latex Foam. The whole headwall and outfall of their parking and storm runoff has failed. The gully is 6' deep and is washing soil down to the river.

Commissioner Szkola: We have to determine if it is a permitted use?

Chairman DaSilva: It is an existing use, they are just repairing it.

Commissioner Szkola: Are they going to make it better?

Mr. Cook: They are providing a snout, best management practice. It is a water quality improvement structure that would go inside the manhole.

Commissioner Szkola: What about the velocity?

Mr. Cook: I would submit that their request is worthy of a permitted use. It is an existing problem.

Commissioner Zahornasky: Does it have to be approved by the City Engineer?

Mr. Cook: There are no galleys. They are taking the existing parking lot runoff and roof leaders that just dump down the embankment of the Housatonic River. It will be a geo-textile and riprap. There is going to be a new outlet structure with a drop manhole. This snout device would be inside the manhole structure at the bottom of the manhole to help temper and debris that may wash off the parking lot.

Tape 2, Side B

Commissioner Zahornasky: In a lot of these projects we have been requiring oil separators.

Mr. Cook: There is nothing about an oil separator but they are not changing their parking lot. They are not changing the structure in the parking lot; just as it leaves the parking lot and goes down the embankment. The primary goal was to repair the slope. In my discussions with them I asked what can you do as best management practices at the last exit point without ripping up the parking lot. They just wanted to repair the outfall and that is where they came up this snout.

Commissioner Zahornasky: So the snout is going to serve as the oil debris separator.

Mr. Cook: Right. It is not as elaborate as a vortecnic unit. It primarily catches the floatables.

Chairman DaSilva: What size pipe is coming into that area?

Commissioner Zahornasky: It says a 15-18".

Commissioner Beattie: We are at a point where we can have them improve the quality of the water by having a separate oil filter. Can we have them put it in as well?

Commissioner Zahornasky: I think that is what they are trying to achieve with that snout.

Mr. Cook: It would probably be a new area where they are not putting in new parking. In this case, the pipe terminates and it used to come out as a headwall and go down the slope. In this case they are doing the drop manhole. The old concrete pipe just got washed away.

Commissioner Zahornasky: How did this all come about?

Chairman DaSilva: The slope was washing away. They want to improve the slope.

Commissioner Zahornasky: was it brought to their attention by an agency?

Mr. Cook: No, the gully is eroding up to the parking lot.

Commissioner Zahornasky: When you have an opportunity to improve something you should take it. If it is the only discharge off the parking lot you have the opportunity to see if we can improve the quality of the water. There is an awful lot of water coming out of that 18". If they can prove that snout works, I would like to see them improve the water.

4. PERMIT – APPLICATION # 04-44, SPLIT ROCK CORNER PHASE 1 – BRIDGEPORT AVE/OLD STRATFORD ROAD. Proposal to construct a multi-faceted commercial facility involving filling, excavation, discharge of stormwater, and grading within and adjacent to regulated areas.

Jim Swift, Civil Engineer

Mr. Swift: this is Phase 1 for Split Rock coming in for final permitting. We have our wetlands permit for earthworks removal. This is advertised as the actual permit for the first phase of the development. We are still working out some issues with DOT regarding the drainage.

Commissioner Szkola: Back up a minute, this is the final thing for the entire site? What percentage is this application?

Mr. Swift: This is Phase 1. It is about 2/3 of the construction.

Commissioner Szkola: Will the entire site be leveled before this gets started?

Mr. Swift: No.

Commissioner Szkola: The reason I ask is I see all the work at Botti's with mud slides and rock slides. The way I figure is level the whole site before you put a building on it.

Mr. Swift: we don't have a permit to level the whole site.

Commissioner Szkola: What will the grades be like at the junction of Phase 1 and Phase 2?

Mr. Swift: There is a driveway connecting Old Stratford Rd. across to the driveway that exists on the other side of the property. Just above that is a restaurant and a retail store that is not part of Phase 1, so in that respect Phase 2 will be level in this location and as this road dives down and goes down to Old Stratford Rd. the restaurant will sit some 40' above this driveway.

Commissioner Szkola: Once you are done with the major site work.

Mr. Swift: (pointing out) Phase 2 has the restaurant, the retail and the office condo up at the top of the hill. There are three levels or terraces.

Commissioner Szkola: How are you handling the in between, retaining walls?

Mr. Swift: we are not hitting as much rock as we thought we were going to, so yeah. We will likely move it around so we could slope them or retaining walls.

Commissioner Szkola: I would like where you end Phase 1 to Phase 2 to have something like a retaining wall. I don't just want a bunch of slopes that would create a mud slide that would go onto a driveway.

Commissioner Zahornasky: Especially with the proposed restaurant 40' higher. So you want some assurances that will be stabilized.

Commissioner Szkola: More so than spraying grass seed on it.

Chairman DaSilva: Are you excavating now where the driveway is? How deep are you finding rock?

Mr. Swift: yes, we are going down about 15-16'.

Chairman DaSilva: You are either going to have to cut that dirt on top of the rock further back or use that rock down below to stabilize it. So at this point you are going to have to determine how you are going to do it.

Mr. Swift: Yes, it is. What we had decided how we are going to handle is the wall along the front of the site. This is where we have the wetland and watercourse. Next month I will explain how we have the underground pipe storage for cooling down the water and the proposed pond plus the piping of the rest of the watercourse. We are still working things out with DOT because they have taken a big interest in this drainage.

Chairman DaSilva: So, what are you here for, just acceptance?

Mr. Swift: Yes. I am sure John has comments.

Mr. Cook: This is for approval of the detailed development plans for construction. Basic plans have been reviewed and approved by the Commission. Earthworks grading plan has been reviewed and approved. The earthworks of the site proceeds and to date the temporary erosion control efforts have been successful. Presently there has not been a landscaping plan prepared. This should be prepared and submitted with particular emphasis on the watercourse and proposed pond portion of the property. Final stormwater design plans, water quality improvement structures need to be reviewed along with computations reviewed and commented upon by the City Engineer.

Commissioner Beattie: You are talking about a pond. I thought we had asked for something decorative.

Mr. Swift: Yes, it is to be permanent water feature.

Commissioner Szkola: Can you give us a plan with the landscaping around there?

Mr. Swift: There will probably be a fountain. I don't think it is necessary for algae because this pond has a pretty good flow-through.

Chairman DaSilva: You are presenting this to us as your final plan. You don't have zoning approval yet, right?

Mr. Swift: No, we don't.

Chairman DaSilva: So you don't even know if the gas station is going to be part of this or not.

Mr. Swift: that is why I don't have a landscape plan. Monty asked me to submit this 2 weeks ago and I don't have the landscape plan. The reason he wants to push this and get an approval is he wants to form the pond, the piping and a lot of things that are happening by the street because it will not change. We understand our obligation to come back to the Commission if there is a change to the plan from what you approve.

Chairman DaSilva: I see his reasoning and yours to try and get it approved because he is working in that area. If you are going to ask the Commission to give you final approval there, then I think you do need to have your landscaping plan. It is critical along the wetland area and retention basin. We need the details of the pond. We also need to look at the drainage the same way the State is looking at. Where is the outflow of the drainage right now into the brook? Through that pond?

Mr. Swift: Two points. We only have 2 chambers. (detailed). It all goes through the chambers first.

Commissioner Zahornasky: We were looking at a means to improve the quality of the water and cool going into the Far Mill River.

Chairman DaSilva: What do you have designed to handle now?

Mr. Swift: 1/2" over all the pavement areas coming all the way up to parts of phase 2. It is sized large enough.

Chairman DaSilva: If that is going to pick up part of phase 2, we want to see that.

Commissioner Szkola: I want to see something where you do the retaining wall with the drop.

Chairman DaSilva: In other words, how are you going to address so you don't end up with erosion. Ok, so it is submitted for review.

Mr. Cook: The other thing that should be in the back of everyone's mind is the standard conditions of the permit is that the work associated with the wetlands cannot commence until all the state and local permits are in place. As far as working within the watercourse itself and DOT hasn't issued their final authorization then the applicant would have to hold off or there would have to be a waiver of that standard condition.

Commissioner Szkola: I thought we put a clause in there that if they don't get the DOT and traffic approval by the time winter comes, we weren't going to leave the site open. What happens, are we going to leave it open?

Mr. Cook: there was some discussion on the earthworks application. We need to make sure if that was part of the motion.

Chairman DaSilva: He has done a good job. I have requested that he put a berm along the whole thing and he has done that. He would have to maintain that during the winter.

5. SHELTON LAND CONSERVATION TRUST. Request for use of Wetland Trust account to purchase development rights.

Commissioner Szkola: I am going to abstain from this, as I am a member of the Shelton Land Conservation Trust.

Mr. Cook: There is presently \$2710. I have a letter from Marybeth Banks addressed to Chairman DaSilva requesting \$2000 out of the \$2710 to use. There is a map attached to the letter showing the area of the farm just before you get to Monroe, opposite the Shelton Auto Body. It is a 40-acre parcel and the owner is retaining 10 acres. 30 acres would be purchased for development rights.

Chairman DaSilva: Oh, so this is development rights, not in fee. Who is the owner?

Mr. Cook: I believe it is Shelton Family Farms but leased out to crop land.

Chairman DaSilva: I would vote no, I don't believe we should approve money to buy development rights.

Commissioner Zahornasky: I don't think that was the purpose of our fund. It was to purchase land.

Commissioner Beattie: This says, the purchase of, it doesn't say development rights.

Mr. Cook: See my note I wrote on 8/31/04. It was purchase of development rights, not open space.

Chairman DaSilva: It is up to the Commission, but I will vote no for development rights. That was not our intent in taking money from applicants to put it into this fund, it was to be used to contribute to open space or used for corrections like when we that blow out at the river.

**Commissioner Zahornasky moved to deny the request from the Shelton Land Conservation Trust and that was not the intention of the fund. Commissioner Wilson seconded the motion. All were in favor, motion to deny passed.**

The engineer for Latex Foam was waiting out in the hallway because our door was locked. Going back to:

3. PERMITTED USE APPLICATION #04-43, LATEX FOAM INTERNATIONAL – 510 RIVER ROAD.

John Schlosky, Pustola Association

Chairman DaSilva: We did go over this and now we can see better that you are trying to correct the erosion of the slope from your parking lot. What you proposed is fine but we would like you go a bit further because it is a large parking lot and you don't have an oil separator in there now.

Mr. Schlosky: What we have on top is photos indicating what happened over the last year. What we propose as a remedial correction is at the bottom we extended the rcp piping with corrugated plastic tied into and extended out 30'. We put about 200 tons of intermediate riprap to that swale. It is functioning today. Latex asked us to design something else that is more appropriate. What we came up with is a system to tie into 2 existing lines into a manhole system. It then discharges into a larger 24" rcp pipe and then into a discharge system as shown on the profile. We have these 2 pipes entering into a drop manhole system. There is a cleanout system and when it builds up to a certain level, it would slowly discharge into the river. It discharges into a sedimentation trap or depression and traps the sediment and then slows the velocity of anything coming down. It does the same thing into the second sediment traps before discharging into the Housatonic River. It would be cleaned periodically.

Commissioner Szkola: How would you separate the oils?

Mr. Schlosky: The oil separation is done by the snout. It is a proprietary item. It allows the water once it reaches a certain level to escape. The oil being lighter than the water will float up. This riprap is an enhanced system that is there now and the intermediate system is working but they wanted us to design something more appropriate.

Chairman DaSilva: what is the width of the manhole?

Mr. Schlosky: 96", inside diameter.

Chairman DaSilva: I would have John investigate to see if that snout does the same work as far as the others that are out there.

Mr. Schlosky: They use it for other systems and it was recommended.

Chairman DaSilva: All the systems you still have to clean it.

Mr. Schlosky: That is what this sump provides for.

Chairman DaSilva: The fact that they included an aluminum hatch indicates that somebody is thinking to clean it. Ok, we will submit it for review.

#### **D. OTHER BUSINESS**

##### 1. FEES SCHEDULE: Discussion from public hearing

Mr. Cook: I included the updated fee schedule based on last meeting in your packets. I did speak with town counsel. If it was just a nominal change, because what was posted was that the Commission was going to change their fees, the exact text of the proposed was not in the notice; however since it was a substantial change that it probably would be best to repost and reschedule the public hearing. You run the risk of an applicant noting the change. The change was on 18.5, Wetland Certificate Fees, 18.6 Commercial Site Plans and 18.10 After-the-fact surcharge.

The Commissioners discussed the changes in detail with Mr. Cook. The decision was to take out the new proposal for extra \$ on the wetland certificate fees. Double the fees and cap off the application fees at a maximum of \$5000. The after-the-fact change will remain. John Cook will advertise the public hearing again.

Mr. Cook informed the Commissioners that if anyone wished to address the Charter Revision Committee to contact them.

Commissioner Szkola: We have to address the replacement of Joe Ballaro. Also, if someone abstains from a vote and we don't have a quorum, the majority rules. That way the guy doesn't come here for nothing.

Chairman DaSilva: We might be able to do that in the by-laws.

Mr. Cook: That came up in the 1980's. The way that the by-laws, the charter and the ordinance, the created commission said that by the majority of the members present and voting. The way the current phrasing is if 4 constitutes a quorum, if one abstains there is only 3 people voting and you cannot transact business.

Commissioner Zahornasky: That's the problem. If we have 5 members, and two have problem.

Chairman DaSilva: That happened some time ago and town counsel asked us to vote again.

Commissioner Zahornasky: I believe it was that we have 4 members present, someone abstained, and then we had a 2-1 vote. It wasn't the majority of the members present.

Mr. Cook: I believe Roberts rules prevail that is in the ordinance.

Chairman DaSilva: Pull out the by-laws and see if we need to go to the Charter Revision Commission.

We are short one member.

Chairman DaSilva: Right, but Neil should now be filling in. I have already made the call to the Mayor. We are supposed to have 2 alternates and 7 members.

Mr. Cook: we are short two people.

Chairman DaSilva: I am going to request to have John send a letter to the Mayor requesting that he appoint another alternate to the Commission and to appoint Neil to replace Joe Ballaro and to get another alternate at his earliest convenience.

Mr. Cook: Just as a side note, to what Chairman DaSilva mentioned earlier about an application where items gets stated by the applicant or neighbors or anyone else; if the Commissioners know the statement made may be in error, just to make the record clear, if it is left unchallenged and you know it may not correct, it should be brought up. Later on, if it not challenged then it becomes the truth.

##### 2. BUFFER – APPLICATION #04-38, SIMONETTI PROPERTY – 102 MILL STREET. Proposal to construct home addition adjacent to regulated area.

Mr. Cook: This is the old Bill Yeoman property with the waterfall. There is a staircase and structure coming out. All the work is within the setback of the Far Mill River but it within existing setbacks.

**Commissioner Zahornasky moved to approve the minutes of the August 9, 2004 meeting, seconded by Commissioner Beattie. All were in favor, motion passed.**

**F. ADJOURNMENT**

**Commissioner Szkola moved to adjourn the meeting, seconded by Commissioner Zahornasky. All were in favor, meeting adjourned at 10:25 P.M.**

Respectfully submitted,

Marianne Chaya  
Clerk, Inland Wetlands Commission

3 tapes are on file in the City/Town Clerk's office

\*A complete copy of the WCEO Report is on file in the Inland Wetlands Office.

Copies of letters from the residents of Thompson Street and North Princeton Drive are on file in the Inland Wetlands Office