

**CITY OF SHELTON
INLAND WETLANDS COMMISSION
REGULAR MEETING**

Thursday, April 8, 2004, Room 303, 7:00 P.M.

I. ROLL CALL:

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

Absent: Joseph Ballaro, Commissioner
Neil Hayes, Commissioner

Also Present: John Cook, Wetlands Enforcement Officer

Vice Chairman Santa called the Regular meeting to order at approximately 7:00 P.M

All in attendance recited the pledge of allegiance.

II. BUSINESS MEETING

A. PUBLIC COMMUNICATIONS

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

Peter Miller – 2 N. Princeton Drive

I am not here to make a complaint against anyone on any board. I want to thank Mr. Tom Dingle from P & Z as well as Randy Szkola. I spoke with him regarding this situation. The reason I am here tonight as well as some of my neighbors is regarding the property at 120 Thompson St., which is on the corner of North Princeton. The concerns are construction equipment on the site. For the last year he has been storing 2 dump trucks, a trailer, a back hoes, scaffolding. On of the trucks is unregistered and he keeps it in the back of the property. Also there is construction debris, such as toilets and sinks. The trucks and equipment are parked for long periods of time in and around existing wetland and wooded area. During this last year he has cut numerous trees and what I have found out by reading about City and State regulations and law is that you have to be granted a permit to cut trees within 100' of any stream, river, lake or wetland area. This gentleman has been notified several times by Planning & Zoning and maybe by this board. He seems to continue to cut down trees, regardless of phone calls and messages left at his property. He had a stop order put on him last year, which just stopped him from working during the winter. Within the last couple of weeks the trees are starting to disappear again. The neighbors are against this because what we believe is happening is the owner is attempting to establish a commercial zone within a residential area by storing trucks and equipment, conveniently parked at the farthest part of his yard, away from his house. There is constant noise from his equipment, from early in the morning to late at night. He doesn't drive it away, it just seems he is fixing it up continuously. He has developed a second driveway, which borders a neighbor's property. The driveways are not legal, because he has not gotten permits for them. He has not gotten a permit to cut the curb, so he just drives over it. The location of the driveway is at an intersection that is also a bus stop. They are both inappropriate and illegal since any department granted no permit. The unfortunate thing is this bus stop is for elementary school kids. My concern, as well as my neighbor's is that we moved to Shelton to be in a residential area. We all have an acre of land. His lot was explained to me was marginal because of the wetlands; he can't develop. We believe if he is allowed to keep his equipment on the property that the value of the property would diminish. We would like to see that he is forced to re-establish the trees on the wetland that he has cut down. We would also like to see that he has to re-establish the area where he put a road based gravel driveway in, also known as a parking lot. If he refuses we would like to see what the City would do to address this, whether you have to go to a legal remedy or not. If the owner is a contractor, he may be unlicensed, because he never uses his equipment. Let him be forced to find another area for his equipment. My opposition is based on five points. It brings an adverse effect to the eco-system by disturbing the wetlands and

wooded area. He has shown numerous disregards for Planning & Zoning, Engineering Dept., and Inland Wetlands. He has been warned numerous times plus had a stop order or cease and desist order. This has been continuing for approximately one year. Our concerns are for the safety due to the equipment entering and exiting on or at the intersection where there is a bus stop. There is also an adverse effect regarding the neighbor's property values. If he is allowed to bring in commercial vehicles, what is to stop others from bring in commercial vehicles? If I wanted to live in a commercial area I would move back to Bridgeport. We believe as property owners that we have a right to a peaceful enjoyment of our property. I don't want to have to get up at 6AM because my neighbor is running his construction equipment. My concern is, and nothing against anyone on this board, but would you want to see this next to your property, day in and day out. I would like to hear from the Board, whether it be by phone or letter, if this is illegal or improper or against violations. I know that in P & Z it is and wonder if it also is in violation with wetlands.

Vice Chairman Santa asked, you say that P&Z has been out there?

Mr. Miller said yes, Mr. Dingle has been notified and had visited the property and had put a stop order out there. That was obeyed for a while and then it was ignored. Now maybe he will move his equipment. Mr. Dingle wrote him a letter and I have a copy. I don't know what P&Z is doing and I might attend their meeting.

Jeff Lutheran, 8 N. Princeton, also feels the same way.

Mr. Cook: There are problems out at that property relative to wetlands issues. I think it dates back to November, 2002. He has expressed interest in doing a number of different activities and did contact an engineer and contracted a soil scientist. At some point the communication or their authorization to proceed ceased. I have had conversations with the engineer to prepare plans but nothing ever came forward. This was after the violation. Some of the things were to build a stone wall next to the driveway and the whole rear property is wetlands and there is some uplands on the far side of the property.

Vice Chairman Santa: Did you discuss this with the City attorney?

Mr. Cook: Not as of yet. Previously it was believed that there was going to be some response on part of the landowner. Most recently another resident another resident had contacted me and I went up there. Where the trees were cut there used to be an old roadbed that apparently has been abandoned. To what degree the legal status is, I am not sure. There are a few individual trees that have been cut and as of last month there has not been a mass clear cutting of the wetlands. Some of the trees and shrub under-story trees were within 50' of a wetland or 25' of a wetland soil. There is an area where the trailer and dump truck were parked and there is stone that was dumped last year that still has need of further restoration work. There was some clean up there but it is probably less than acceptable. There are some cosmetic things that are being done to the house. There are stone in the town right of way which I would suspect that he plans to make a stonewall but they have been sitting there for some time. Those are outside any wetland jurisdiction. Most recently there has been a letter sent by the City Engineer regarding a violation in making another driveway cut. I have not heard back from either the property owner or his engineer. I haven't talked with Mr. Dingle regarding his conversations with the property owner this past week.

Vice Chairman Santa asked Mr. Cook if he would speak with P&Z to see what they are doing and also send the Mayor and City Attorney a letter regarding this situation.

Mr. Miller asked if he could get copies of letters sent. Mr. Cook said that would be fine.

Commissioner Szkola: Are we going to issue a letter of violation and cease and desist?

Mr. Cook: If the Commission wishes. It is a violation.

The Commissioners agreed to proceed with violation notices.

Vice Chairman Santa turned the meeting over to Chairman DaSilva.

Mrs. Swati Sood, 26 Monroe Rd.

We want to put an addition on our house and entire addition would be in the buffer of the wetland. I did not realize that in part of the wetlands we have a grass area. I am here to ask for approval on my plans. (The plans were presented for review). There were pictures presented showing where the area is marked for constructed.

Vice Chairman Santa: Have you submitted an application?

Mrs. Sood: Not yet. I wanted to ask if I do make the application is, would I have a lot of problems getting it approved?

Chairman DaSilva: Before you get into that Mr. Cook can go out there and look at it with you to look at the extent and type of wetlands there are.

Jim Swift stated that they approached him to make the application for them. They had talked with Mr. Cook and he was being very cautious because the entire project falls inside the setback lines. My first impression was that she needed to be cautious but the garage and proposed could fall within the pavement of the existing driveway. Most of the grass buffer between the driveway and the wetland could remain. I recommended for them to come here. They would be trading a structure for a paved area.

Chairman DaSilva: How much outside of the driveway would the house go?

The areas were pointed out, which would be about 4-5'.

Chairman DaSilva: My recommendation would be for John to go out there and see if there is latitude to be able to make a determination. File an application, submit plans and go through the proper process. I would recommend that along the border of the wetlands there are a lot of rocks and you could make a boulder wall at the end of the grass and along the wetlands. Do that before construction to keep equipment out of there.

Mr. Cook: Relative to that, this goes back to not being included in the loop when C.O.'s are issued and having detailed drawings on as-built's with exact information as to what was built and the grading because the foundation of the addition is proposed in the grass area that is wetlands. The question that comes to mind is, though it is lawn, as in the case of many of the older properties that were built in the 50's, 60's or 70's, their lawn areas do exist and are fully functional wetlands by the soils that the Commission struggles to regulate. The question is, are these still wetlands even though the builder provided more lawn space and shifted the house differently than what was proposed, and if it still a wetland, in order to do this addition, consent to eliminating the wetlands completely. That is why I urged them before they got too far along to look into trying to sustain a previously violated condition on the wetlands.

There was concern about the accuracy of the map. Jim Swift said they would need to get a soil scientist out there.

Mr. Cook said Mr. Fred D'Amico certified it.

Mr. Sood asked, you had recommended to create a rock boundary, is that saying to put the rocks into the wetlands? There is a drop off.

Mr. Swift: It means to put the walls at that point, maybe a little higher.

Mr. Cook asked that they call and leave a message on his voice mail when would be a good time to visit so that they could be present as well.

B. OLD BUSINESS

1. BOVA PROPERTY – 118 East Village Rd. Discussion regarding complaint.

Mr. Cook: Reading from the WCEO Comments*: In addition to the March comments below, staff and Commissioners Szkola and Zahornasky visited the site on April 2, 2004. It appears that he city should construct better measures to contain sediment. In addition, any measures used will require routine maintenance. There is no question in the opinion of staff nor of the Commissioners present that systematic encroachment has taken place on the Allaire and Bova property into the regulated area. Encroachment does not always involve the "trucking in" of offsite material. The Allaire's have apparently constructed a shed in violation as well as yard debris storage on wetlands and/or City property. This wetland system is not one that lends itself to lawn conversion and the landowners should cease and desist such work and allow the wetland on their property beyond the watercourse to continue its natural processes, which includes vegetation growth. Attached are copies of the maps prepared from aerial photos of 1973 and 1988. They clearly show the expansion of yard space over the years. Photographs from 1995 and 2000 are available if required. Staff has gone through this exercise, not to belabor the point, but to factually demonstrate and to "put to bed" that part of the problem is not just sediment from a municipal source. The area was saturated in 1973, 1988, and is presently. However, the turf areas are larger today than in 1988. The Commission may wish to direct a planting effort as well. Staff concurs that there has been insufficient maintenance and control on the part of the City. There is always room for better maintenance of municipal structures. The City should be directed by the Commission to install sediment control facilities but it is not apparent that a prefabricated concrete structure is warranted. There appears to be several locations on the site of the White

Hills Recreation Complex where open sediment should be constructed. The reason why I recommend over an enclosed concrete structure is that these basins will be easy to observe for maintenance. They can hold a larger volume. The neighbors can easily see when it is getting full.

Part of the problem is that it is a dead flat wetland and any type of channel that is on that property, natural or artificial sediment is going to collect and settle out there.

Commissioner Szkola: Even if you put a \$100K system out there, if you don't maintain it, it won't do any good.

Vice Chairman Santa: You have already written letters to the City about this?

Mr. Cook: Yes that is a separate item on the agenda concerning this.

Chairman DaSilva: What do you as a committee recommend?

Commissioner Szkola: We can say put in an open basin but I am not an engineer, and it is not up to us to say. They have to address this from an engineering standpoint. We are only suggesting an open basin.

Chairman DaSilva: We can only recommend but can't say what should be done. I think the next letter that should be sent to the Mayor and the Street dept. is that this Commission will accept an application from the City or who ever they recommend to resolve the problem based on the suggestions made by John Cook and the committee that were charged to look into this problem. They should come back to us and this Commission will work with them to resolve this issue as soon as possible. Based on the observations that the City should clean out the basins immediately.

Commissioner Szkola: To prevent further complications the sand pile needs to be moved or permanently covered in an adequate fashion.

The Commissioners all agreed to the points that need to be in the letter.

Mr. John Bova, 118 East Village Rd.

The situation that we are talking about here is all of a sudden John Cook is more interested in what is being done on my property than what is being done with the pond. The problem is where the water is coming from, the Rec. area, and the sand and silt is still coming down because it was not covered all winter. You were up there Friday and saw all the extra sand that came in again. It is flowing but the sand and silt is still coming in there. The City engineer designed the catch basin, right? It was approved and the money was appropriated.

Chairman DaSilva: We do not have the authority to make any corrections on your property. We can only approve what the City wants to do there. We are making recommendations and have taken this as far as we can by sending a letter to the street department requesting that they resolve some of the issues. If you are not getting any response then maybe you should go before the Board of Aldermen.

Mr. Bova: I did, and it was resolved. They appropriated \$8K to do it.

Chairman DaSilva: Then go back to them and ask what is going on.

Mr. Bova: Then I will have to go back to them because I am not going to let this thing drop. I think a catch basin will work. It may not be the total answer but if it is put in there and maintained, I think it could work.

Chairman DaSilva: We can't continue to go on because we are going nowhere here.

Mr. Bova: All I know is the buck is being passed.

Chairman DaSilva: We are not passing the buck. We have gone beyond what we typically do. I do not want to minimize what John has said regarding the clearing that has been done on the property based on the maps from past years to present.

Mr. Bova: I am under the grandfather clause. I bought the property in 1966 and no wetlands were in Commission.

Chairman DaSilva: Because you bought the property in 1966 doesn't mean that everyone who bought their property in this town that has wetlands today that bought their house before I started on this Commission in 1974, if you are telling me that everyone can fill their wetlands because of that, you are wrong.

Mr. Bova: What I am trying to say is that I am not going in there and filling in the wetlands like John says.

Chairman DaSilva: John is not saying that. He is saying that there is clearing.

Mr. Bova: What's he looking for, he's looking for a clearing on the other side of my pond? That has nothing to do with it.

Chairman DaSilva: Let's end the discussion because it is not productive. Please go before the Board of Aldermen and ask them what happened to the funds that they appropriated.

Mr. Bova: I will go downstairs right now.

2. PERMIT-APPLICATION #03-40, ZUCKERMAN PROPERTY – LONG HILL AVENUE/WINTERGREEN LANE. Revised proposal to create an 8-unit affordable housing project from the filed 6-unit proposal involving construction and grading within regulated setbacks and discharge of stormwater to a regulated area.

Mr. Jonathan Zuckerman, applicant

Mr. Zuckerman: This is the project as previously presented. We still have not heard from the engineer regarding the tanks if there are too many or not. In Mr. Cook's comments said maybe action should be taken pending the approval from the City Engineer for the modifications.

Chairman DaSilva: So the only thing we don't have is the comments from the City Engineer, right? Everything else seems to be in order, right?

Mr. Cook: There was an initial report from the City Engineer dated January 8, drafted for the initial proposal, which was for a 6-unit development with stormwater management. The City Engineer had no problems with that stormwater management plan. As the application evolved with the additional units still providing additional stormwater management control, reducing some of the encroachments into the regulated setbacks. There are a few items that have been discussed at length at the March, February, January meetings that I feel have been resolved or considered and at that point, acceptable to the Board. There were some miscommunications between staff and the City Engineer's office. There are a few lacking reports from him and he was out of the office today. The fact that he commented on the initial site plan in January, I would feel that he would find this stormwater management equally sound, hence recommending approval subject to getting his report.

Chairman DaSilva: That would be my recommendation so as to move this along.

Commissioner Beattie: In March we asked which units would be affordable.

Chairman DaSilva: That is not something we can ask and is not under our jurisdiction.

Vice Chairman Santa made motion to approve permit application #03-40 subject to the favorable recommendation from the City Engineer on the drainage system. Commissioner Wilson seconded the motion. All were in favor, motion passed.

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

Attorney Dominick Thomas, representing Toll Brothers
Jim Swift, Professional Engineer

Mr. Thomas: The subdivision application has been filed, the property has been posted and notices have been sent to 22 homeowners. There is a meeting at the White Hills Civic Club on April 19 and we are making a presentation at that time.

Mr. Swift: We had some outstanding issues from last meeting that we would like to address tonight. The first one was the roadway crossing of the buffer areas. Two things are happening here. This is Mr. Opitz's property (pointed out) and he has a problem with the surface water that is coming down. There are also ground water problems. The question is how does this roadway affect that and the ground water coming underneath the road. We have added a section to the plan. (Shown was the up gradient area of the roadway and the gravel swale) There is an under drain to pick up the under drainage. At the last meeting I was explaining about taking the elevation as deep as it was and assuming the ground water was still intact at that elevation, if you project that across level to the other side of the road, the ground water will come back out of the

ground at this point. (It was shown where the disturbance limit was, which was on the application) The ground water influence amounts to another 700 sq. ft. of wetland impacted.

Commissioner Szkola: You are putting in a curtain drain across the road?

Mr. Swift: The curtain drain is on the high side of the wetlands and we will pick up the surface flow. It will come around in the swale and be directed to the catch basin. Below the swale is a curtain drain, 3 ½' lower, that will protect the pavement from ground water. That pipe continues along the high side of the road and ties into the lower part of the catch basin. It is more than adequate to keep the road dry.

Chairman DaSilva: You are not going to take all the water from going down to that house, but that is all you can do, right?

Commissioner Szkola: It is not going to drain the wetlands.

Mr. Swift: No. Even if you assume we have more impact than the disturbance line. On the cross pitch that I was describing, if it was flat then it could very well drain it.

Commissioner Szkola: On the larger side of the wetland you have a curtain drain there, and on the wetland above, will that curtain drain serve to drain the water from those wetlands?

Mr. Swift: Not much. Because of all the soil testing we have done, the pitch is pretty good. The reason these are wetlands is there is a layer of hardpan that is 24-30" deep. That is what is keeping everything up and wet. When we cut into that we are not draining groundwater from very deep, we are picking it up as it comes across the hardpan and drop into our under rain. There was also discussion on the impact on our wetlands in the buffer. One of the questions was how much could we move the road. I checked all the lots and they are as skinny as we could make them. That is why the road is where it is. We cut the shoulder back 5' which gives us another 5' of non-disturbed area adjacent to the wetlands. We hope the Commission finds that acceptable and we could do some plantings in that area. The other issue was the cul-de-sac and the way it was pointed at the crossing of Wabuda Place and these two wetlands. We realigned the street lines so that the center line of the road points right through where Wabuda Pl. cuts between the wetlands. We relocated the right of way to a point where the absolute amount of wetlands will be disturbed when the road continues.

Chairman DaSilva: So you pretty much met the request we had at the last meeting.

Mr. Swift: The other issues that Mr. Cook had was about the detention pond on the slope. We did have a meeting with John and Bob Kulacz, the City Engineer. One thing that was pretty definitive on Bob Kulacz's part is that this pond must be accessible. We designed it so that the access way comes down the driveway. We relocated the pipe and will be able to construct a 10' access way down through the pipe to the pond.

Vice Chairman Santa: Do we want a pipe or do we prefer to have it open?

Mr. Cook: After discussing it with the City Engineer and visiting the site myself, the City Engineer has major reservations about the whole proposal. I have significant reservations as far as advising the Board and will elaborate in my report.

Mr. Swift: We had the field topography done. The grades are accurately and truly drawn on the plan. The issue about making it an open swale, it is tempting, but because of the cross pitch, I was afraid it might break out at some point. I am more comfortable with it being a pipe. There was some concern about some other ponds that were proposed on Whippoorwill. We did a lot more work on detailing how this pond is precisely going to be built. We have talked with Toll Brothers and they have agreed to offer if the Commission wishes to make as a condition of approval to have a civil engineer inspect it at the time of construction and to be certified by the civil engineer post construction.

Commissioner Beattie: After the pond, where does that water go?

Mr. Swift: The entire reason why we brought the water down to this point is from this point all the way down is now sheet flow. We have all these back yards with houses on Village Rd. along here and we don't have a brook that we can discharge to. The closest thing we have is this wetland here has sort of a watercourse. It is not well defined, and we have talked to the O'Brien's and they have sort of a wet back yard and they are not anxious to have any more trouble than they already have. It wasn't something we felt we could discharge to without affecting these people. We also have to bear in mind that the piping that goes down Village Dr. is only 15" pipe. It always came back to was that when we get the water to the pond and wanted to provide the emergency outflow there wasn't any safe way to get it from there to Village Dr. Even if there was, Village Dr. only has a 15" pipe.

Vice Chairman Santa: Is there any chance of picking up the wetland up the hill into this system?

Mr. Swift: What may happen is we get into the same discussion as to do we dry up the wetland? The last thing I wanted to do is submit drawings and pictures. The other issue John Cook had was taking the water that used to go to Indian Hole Brook and bringing it to another area, how is that going to affect the watercourse. The photos how the watercourse runs in reference to Indian Hole Brook.

Commissioner Beattie: The increase of all the water in the pipe is not going to have an adverse effect on that?

Mr. Swift: No. It does get there eventually anyway. We are providing a longer time of concentration by making it run this entire route around to bring it to the detention pond. This detention pond will serve as a sediment pond.

Chairman DaSilva: What is the time of detainment of the water based on the storm? While Jim is looking, John, why don't you address some of your concerns?

Mr. Cook: The clock is running out on this, so the Commission will either have to make a decision or the applicant will have to grant us an extension. There are still some major issues. The City Engineer is still concerned regarding the location of the detention basin, because it is still so far removed, even if you build a roadway to access it, you are still going to have sheet flow off the lots that will be running down to a road cut on a side hill which is either going to flow down along that access roadway until it get to the basin or spills over and crosses down the side slope. It is a forested canopy and very steep and very material holding to the surface. It is like loom sitting on a side hill. In the detail it shows it at a 1/1 cut slope and a 1/1 out slope on the low side of the basin, similarly to what was done on the Sunset Ridge subdivision. Both are exceedingly difficult to negotiate, difficult to contain or get out of once you get into them. If at some time they were to fill up with a depreciable amount of sediment there would be a problem maintaining them. For those reasons staff still has concerns over it. The one item I bring up to what degree this Commission has is the extension of Sachem Dr. to East Village Rd. The engineering dept. is saying flat out that they are not recommending a connection of Sachem Dr. to E. Village Rd. The only extension they are willing to consider is the extension of Wabuda Place out to E. Village Rd. to where Jim has made that shift in alignment. That being said, if Sachem does not extend out to E. Village Rd. as in the proposed plan, then the design should take in account the possibility between the lots 5 & 37. Either access a couple of lots from E. Village or via a common driveway from Sachem Dr. cul-de-sac. Now is the time to prepare for that possible design change, early rather than later. Also the discharge of Sachem as it goes out to E. Village Rd. will be discharging into the same system that feeds into the White Hills Rec. complex and the Bova property as well. It comes down to more discharge into a system in a concentrated point discharge.

Chairman DaSilva: Is that a recommendation that the City Engineer is going to make to P&Z?

Mr. Cook: Yes. He said he may be over-riden but from an engineering standpoint he has no other recommendation to make. Relative to Sachem Dr., even with the cross section that the engineer has prepared and the detail is helpful. You are to assume that there is a ground water influence on the wetland system on lot 27 and if you don't make that assumption and you have a hardpan layer and that wetland is surface flow dependent, if you don't maintain a cross flow from one side of the roadway to the other side, I believe you will de-water the majority of the wetland, not just a small couple hundred feet of it. Typically when the soil scientist goes out to determine the soil structure they are only looking at the top 36". They are not looking at ground water discharge. Groundwater discharge can lead to a formation of a wetland soil but is not the overriding factor. It is the surface flow over a wide area of water that leads to those formations.

Commissioner Szkola: What is the current vegetation?

Mr. Cook: Red maple swamp and overgrown pasture. It is very wet and quite shallow slope as a cross slope. It is saturated all the way from Sagamore to where the grade picks up around the curve. In maintaining a cross flow with some sort of stone envelope you may need to raise the elevation of the road to maintain your access and curvature. When you get down to the common boundary line between the Opitz property and the subdivision boundary, which is where you make provisions to intercept it. Undoubtedly that lot was a wetland lot years back when the subdivision was created. Make provisions to provide so that surface flow is maintained to that entire wetland when it comes to the Opitz property it is intercepted as he has done informally for the last several years. Otherwise I think what would need to be determined is to say that wetland is being impacted by de-watering and you include that into the mix of the disturbed area.

Commissioner Szkola: Otherwise you end up like Forest Parkway.

Mr. Cook: I think it is achievable from an engineering standpoint, you may need to kick the road up to get all your utilities and cover based on your profile. Once you get down to the lower portion of that wetland that can easily be severed and then redirect the water around the Opitz property without de-watering the wetland.

Commissioner Szkola: Would something like Chairman DaSilva said, an envelope underneath, work?

Mr. Cook: Yes. The Commission in the past has used them. Relative to the extension of the storm drain for the whole drainage system, and as I look at the plans I look at them as a technician, and when something comes to mind I don't analyze it, I say, if it doesn't work, have the applicant's engineer show why it doesn't work. The low spot of the road is at the curve of the road and they are forcing the storm drainage against the grade and then on down. As I look at the general lay of the land still goes from west to east. Presently the sheet flow is feeding down into the wetlands. The construction of the road would have a tendency to sever the sheet flow that is feeding into the wetlands. Because of the severity of the slope, once construction starts, if there is a problem, that problem is going to last the life of the subdivision. When the P&Z administrator and myself went out there we came from Village Dr. through the woods to the location of the basin and hoofed it up this grade and there is outcrops of rocks, vertical bluffs, difficult terrain and the site work for market rate houses, as desirable as they are, are going to be very difficult to contain, hence the concern for erosion control. Even though the uplands are hundreds of feet away, the ramifications of sediment running down the hill are significant. Going back to the curve of the road, it is discharging currently adjacent to conserved land that goes into the State Park. I stress the significance and importance of it. Has the applicant exhausted the alternative of securing the easement through one of the existing parcels of Village or Sachem Dr., or the proposed lot development on Sachem Dr., which is under control of the applicant? This is at an elevation of 465' at the low spot of the road. It continually drops down to an elevation of 410-420' along Sachem Dr. There is a large flat area behind lot 25 so that the storm drains were directed to a detention basin on lot 25 with an overflow to go out to Sachem, either between lot 25 & 26 or where the low point of the wetland is. Then incorporate it to the drainage easement to Sachem Dr. The amount of piping is substantially less than the serpentine construction. If the City Engineer can look at it and determine based on the design of your outflow, will the 15" pipe that is on Village Dr. sustain it or he may say just replace the pipe along the shoulder of Sachem Dr. to where you can incorporate your proposed drainage into existing drainage network and then where it feeds into along some place along Village Dr, it already goes into a watercourse, and then at that point you look at that discharge point and say this may be a spot to do armoring of rip rap if needed. The photographs have demonstrated that little stream is covered with moss on the rocks. You pick up this entire hillside of runoff, discharge it to a stream, it is stable now, but I don't believe you will be able to sustain that same quality of that small watercourse with the discharge. The volume of water is going to be coming out of that detention basin into that watercourse and based what I saw out in the field, I have reservations as far as advising the Board on that. Overall, I think the applicant has done, relative to typical wetland issues, a good job. Given the size of the parcel and the nature of the site conditions I believe the drainage issues and the road issues warrant greater scrutiny of the application to conduct those regulated activities.

Chairman DaSilva: One major issue for this Commission and the City Engineer is the piping of the water to that basin. I think John had a good recommendation for you to evaluate, going over to lot 25 to see anything that can be done in that direction. The other issue regarding the connection to E. Village Rd. versus what the City Engineer will recommend, we can't determine that, based on what we have before us is what we have to act on. However, I agree with John, if there are possibilities that the road will not go as designed, then we have to think about how the new design would look. You would have to come back to us if that was the case.

Mr. Thomas: It would be 2 dead ends. I understand what the City Engineer wants to say. If the town wants to condemn it they can. This is the town that wouldn't move this lady's house to straighten the road the way it should be and you think they are going to take 80 year old Joe and Loraine Wabuda and their son Todd and ask them to leave. I don't think so.

Commissioner Szkola: The City Engineer can't speak for the Commission either.

Mr. Thomas: Right, he can make a recommendation. We have approached them with the dead end idea and we are proposing to "give" this 50' right of way to the town, so they won't have to condemn anything or destroy a wall.

Chairman DaSilva: Even if the City Engineer might recommend that from his point of view, the Commission has to deal with other issues and will decide where the road will go.

Mr. Thomas: We have exhausted with respect to other property owners, as far as accessing from other properties.

Commissioner Szkola: I spoke to the attorney for the Land Trust and they are not particularly pleased with being the adjacent landowner with having all the water funneled down and dumped on their property. They conserved the land for a reason and don't want to be dumped on any more than the other property owners want to be dumped on. We had some bad experiences with assurances from the City Engineer, one being what happened on Commerce Dr. when they put in David Mack's parcel, it all washed out and all the engineers promised the world that nothing would wash out. We ended up with a severe problem. The Land Trust is extremely concerned about this taking place and the water being dumped adjacent to their property and are possibly looking into legal ramifications to resolve that. From my perspective, lose a lot for the pond. Put that pond on lot 17 or 19. Maybe even a series of ponds. I am concerned about the loss of the sheet flow to the wetlands like John said. It looks like everything is funneled down. It looks more like it was designed to squeeze another lot into it. Our concern is to preserve the wetlands.

Mr. Thomas: If the Shelton Land Trust would like to call me, I would be glad to talk to them. I would hope that before they threaten lawsuits that they would get their own engineers to look at it.

Mr. Swift: Regarding the issue where the road is going to go, if tomorrow the Wabuda Place was built out and we decided to cul-de-sac here, the wetlands and the layout would look the same.

Chairman DaSilva: We don't know what way it is going to go. If P&Z makes a change you will be back.

Vice Chairman Santa: I can almost bet dollars to donuts that the wetland I mentioned before, that if we don't do something to drain it, the people below are going to come in very angry and blame us.

Mr. Swift: Mr. O'Brien did talk with us and one thing I am looking at is all the people down here, and we have all experienced Whippoorwill and these kinds of things, and this has to be looked at. This is the reason why we have designed it the way we have. This system is going to cost Toll Brothers a lot of money. One of John's points is the houses that are on the hill coming down and eroding. One of the benefits in bringing the drainage down to the bottom of the hill is that we need to address the three lots as far as their ability to generate water on the hillside. Until Whippoorwill came along when we were building raised ranch houses you could build a house up gradient of somebody and it might affect them but not much. Now you are talking about 7000 sq. ft. of impervious surface and you can't do that. That is the reason the pipe is vital. It picks up these houses and gets it into the system and prevents them from washing down to this location. That ties into building a pond up here. We can do it but I want to go down as far as I can to pick up as much from the development as I can.

Chairman DaSilva: Perhaps a better way to pick up the impervious areas might be to take some underground storage to get the water to.

Mr. Swift: I have done that in some of the areas up here but they have to be so big and we are so shallow to ground water that I get nervous about it.

Chairman DaSilva: Let's address what John said about moving the drainage to lot 25.

Mr. Swift: There is a high point in the watershed. There is a split in the watershed that runs right where the road is (detailing it for the Commissioners showing where the piping system goes). If we did do something on lot 25 or up gradient of Mr. O'Brien, it works fine as long as the 15" pipe can handle the amount of water we are discharging. What do you do when that pipe can't handle it anymore, which does happen around the 10-year storm? When you design a detention pond you must plan for a failure of it or a 150-year storm. There has got to be a safe way of getting the water out of the pond without making the pond fail. I would like Bob Kulacz to agree to a discharge of the pond and even if I could by surface overflow provide emergency discharge to a point here, I would be asking him to allow me to dump a tremendous amount of water just into the street. That is the reason we stayed away from ponds in this location. We considered everything after the last meeting. This discharge is going to come down here one way or another. I feel it is pretty much inevitable and the other place that is stable and will work properly. As far as what the Land Trust making a statement as far as being a dumping ground, that is where the water goes. Even if we could get the water down to Village Dr., that drainage comes down to the easement and dumps out.

Commissioner Szkola: You just said it was sheet flow from the whole thing.

Mr. Swift: Outflow sheet flow. It comes and kind of flows through the back yards.

Commissioner Szkola: The way it gets there is different.

Mr. Swift: It's different, make no mistake, it's different. It probably gets there with more sediment. Even if we could get the water down to here (shown), we would cause a lot more problems trying

to discharge the water at this point. It is much steeper down to Indian Hole Brook, there is no easement through the Land Trust property and there is no watercourse.

Mr. Cook: Physically walking the area it is certainly is much flatter than those contours show. You mentioned about trying to protect the people on Village Drive, which is admirable, as the houses are getting bigger and the land is more challenging, there are more issues at stake, some are not just wetland issues but water issues as well. In picking up water, as Vice Chairman Santa said to de-water a wetland that may be something this Commission considers but that needs to be counted in the mix of disturbance. From the true sense of wetlands protection you don't want to de-water the wetland because many times that has been the argument that has been used before this Commission to say that wetland has been de-watered to such an extent that the wetland is now expendable. When you said that there was a change in the divide on Sachem to Village, at what point does the divide on Village stand pitch towards the Land Trust. If the 15" pipe sustains it at the intersection, so there is not a lot of distance if supplemental pipe or a larger pipe was put into Sachem to run down Village Dr. You are working in the confines of an existing right of way and you have a disturbed area at an existing discharge point. If there is a legal right to discharge to any existing condition, whether it is as designed or at the cul-de-sac, and I am not speaking for the Land Trust, one singular discharge point that is stable would probably be preferable than having a new one, which is a pristine corridor, running from Indian Hole Brook all the way up through there. The evidence of pasturing is completely gone. Maybe you could enlarge it from 15" to a 24" in order to get the capacity that you are talking about. As far as the emergency overflow that you are talking about maybe there is a mechanism to be designed on lot 26 as it exits the applicant's property.

Chairman DaSilva: We could exchange opinions all evening, but we are going to have to rely on the City Engineer's opinion. The points that John brought up are the points you are going to have to address. The other one is the concern that Randy brought up concerning the crossing and the draining. I need to move on to the meeting and will give you a few more minutes and if you wish you can give us an extension so we can continue to address these issues. We cannot make any decision until the City Engineer tells us he is satisfied with the drainage system.

Vice Chairman Santa left the meeting at 8:30 P.M.

Mr. Swift: The City Engineer has had the plans for two weeks; I don't know why he hasn't responded.

Commissioner Szkola: I am not prepared to do anything even conditionally.

Mr. Swift: We haven't finished the presentation.

Commissioner Szkola: Down the line.

Chairman DaSilva: We will need the City Engineer's report before we can make a decision.

Mr. Swift: It is my opinion if we were able to get the water down to this point, it is not a stable discharge point for that drainage.

Chairman DaSilva: That is something you need to put in your report to the City Engineer and convince him of that. We are not engineers and cannot make that determination. If you are telling us that then we have to go to the City Engineer and ask him, is Jim correct. We have to rely on him.

Mr. Swift: We have put a lot of work in examining this discharge point. My opinion is that it is stable and will handle the flows. We talked about de-watering the wetlands.

Mr. Thomas: I want to clear one thing about de-watering the wetlands. It appears that everyone was talking about different wetlands. They cleared the air concerning which wetland they were talking about.

Mr. Swift: Is it still an issue about the de-watering of the wetland?

Chairman DaSilva: You told me that you have the hardpan about 24" and that is what is creating the wetland. You are going down 3' for the curtain drain. Obviously the wall of that drain is going to come through and cut through the hardpan, so you are going to have drainage from the wetland.

Mr. Swift: It actually doesn't go all the way through the hardpan because it goes deep.

Chairman DaSilva: I do have concerns like Randy that there is the possibility for some drainage and drying of that wetland. My feeling is that you still can design that the way that I recommended is to create an envelope under the road so we can continue to have some flow

down onto the other wetland and take care of the problem of the neighbor down below right at the property line rather than up at the road.

Mr. Swift: Here is an alternate. We have a problem with the grades having been established coming down (location pointed out). In order to maintain safe site distances I really can't lift the road up too much. I would suggest is to take the upper curtain drain which will pick up surface and ground water and tie it with 6" pvc pipes every 20' on center, bring it over to another drain on the other side, which is a 1" gravel trench and let gravity do its thing.

Chairman DaSilva: That will take care of the wetland on the other side but what about the drying of the upper wetland?

Mr. Swift: I will stand by my original position that the hardpan has depth that keeps on going.

Chairman DaSilva: If the hardpan goes down 24-30", so the water is sitting on top of the hardpan, you are going down the 36" or so and that is going to be all gravel. The surface water from that wetland or to where the loom touches the hardpan is all going to drain into that.

Commissioner Szkola: So in other words, you have a shallow bowl? This is hardpan below, right? If you cut off the corner of this bowl, we are concerned.

Mr. Swift: There is no bowl; it is a consistent, straight grade.

Chairman DaSilva: We will have to take a look at that. Is it possible to take the curtain drain and put it in on the opposite side of the road? I know that you are trying to get water from underneath that road. If you dug out that entire wetland underneath the road in a 30-50' area of your road, and filled it up with rock, you are going to have a good base for the road. Now we have a way for the water to continue to move through there.

Commissioner Szkola: We did that on Grace Lane.

Chairman DaSilva: I think that the curtain drain will be more effective on the property line. Take a look at it.

Mr. Swift: So we are concerned about that issue and the City Engineer's letter.

Chairman DaSilva: With a subdivision like this with there is so much concern about the drainage and the way your are proposing it, there is no way this Commission is going to give approval without the City Engineer's approval of the drainage system.

Mr. Thomas: We will give the extension but if we come back in 30 days and he has not issued at report.

Chairman DaSilva: The City Engineer does not work for us and we do not control his paycheck.

Mr. Thomas: If the City Engineer does not render a report then the Commission should do is render a report based on what you have before you, which is Mr. Swift's engineering report. If you can't force the City Engineer to answer, we can't force him either.

Chairman DaSilva: I would think as an applicant that he has an obligation to respond.

Mr. Thomas: He is not in our application process; he is in yours. He has to respond to you.

Chairman DaSilva: John, please send a letter to the City Engineer stating that we had to ask the applicant for an extension and we would like to receive his comments on the drainage system.

Mr. Cook: I can clarify that and give staff's apologies to the applicant and to the Commission. When Jim Swift submitted the revised proposal several weeks back that was forwarded to the City Engineer. I believed that it was going to be on the upcoming agenda and the City Engineer was waiting for a specific request from myself saying here is the agenda and please prepare a report. Then I found out he was off today. That does fall on my shoulders and I apologize.

Mr. Thomas: One request that I would make as an applicant is if we could get the response before the meeting to give us time to review it.

Mr. Cook: One thing to note is, that when an application comes in and is filed, generally this is true for the City Engineer and P&Z, as plans are constantly being reworked during a review clock, there was a gentleman that came in this morning and wanted to submit a full set of revised plans for tonight's meeting and there was just no way. I think it is something that is prudent to discuss so that at some point when an application is submitted that packet is what the City Engineer would review, is what the Commission and P&Z has. What submitted is what is considered. If

there are things that need to be adjusted at that point it will be 30 days for staff, the City Engineer or P&Z to review something to make comments. That has been an on-going problem because on some proposals there have been 6 sets of plans during the course of a 45 day period. The common question from the City Engineer is which plans are to be considered for review? I think it is fair for applicants.

Commissioner Szkola: This is a relatively fast process compared to other towns. Why do the tax payers have to pay for the City Engineer to have to review something 4 or 5 times to make it more profitable for the developer.

Mr. Thomas: That is averaged in as part of the fee that the applicant is paying. A lot of the engineering review is a result of Commission comments, not necessarily just from this Commission. I will e-mail or fax an extension to May 14.

Dan Rossi, Land Development Manager, Toll Brothers

Mr. Rossi: We have no problem giving the extension. I would like to give clear and concise direction to Jim so we are not here at the next meeting going over the same issues. This basin has been down there for months. We had a meeting with John Cook and the City Engineer who said we want an access road and we will give them that. Give us direction, where do want the basin.

Chairman DaSilva: As far as that crossing, Jim had addressed it and he didn't address it the way I thought it should be. If you don't want to change it, we will vote on what you are proposing. As far as the drainage we can't take a vote until we receive comments from the City Engineer. There are concerns about that system.

Commissioner Szkola: The last time we saw the access it came from a different direction.

Mr. Cook: We did have a meeting and it was fruitful because we could go through the details. From the initial comment I made I had said there were reservations and concerns. At present I still haven't been convinced that is the best location so I suggested lot 25 or 26 to have a basin.

They all discussed the need to get a response and suggestions for reasonable alternatives if what is proposed won't work.

Mike Opitz, property owner down below

Mr. Opitz: Jim, did you dig in any of the wetlands to make your determination that is where the water is flowing?

Mr. Swift: I didn't need to because they are consistent soils throughout. The reason they are accumulating and becoming wetland soils in these locations is because of a slight depression. I can dig on either side and tell you that the soils were very consistent in all the test holes.

Mr. Opitz: My house was built on wetlands. At the location right below the extension of the wetlands I tried to put in a geothermal heat pump in last summer. We had several who tried and failed. We hit water at 3' down. The reason we went to glacial drilling is that have an advance casing drill that puts the casing down along with the drill bit to keep the water out so we could get the tubing in. It is all glacial fill down to competent rock at 120'. The water started at 3' below and went all the way down to 120'. At this point directly below the wetland there is a very strong flow and it is not just in the upper surface. If you are worried about the upper 3' it isn't going to happen because it goes all the way down deep.

Chairman DaSilva: You are at a much lower area.

Mr. Opitz: I am 18' from where the water needs to be diverted.

Commissioner Szkola: My concern is for the red maple, it has about an 18-24" root system. You are in a red maple swamp wetland and I am concerned about it.

Mr. Swift: It is a red cedar swamp.

Commissioner Szkola: But it was a sustained wetland.

Mr. Opitz: It sounded to me that everyone was saying it is all going in the surface hardpan layer but it goes a lot deeper.

Commissioner Szkola made a motion to accept the request for an extension from the applicant until May 14, 2004. Seconded by Commissioner Zahornasky. All were in favor, motion passed.

4. PERMIT-APPLICATION #04-09, THE WOODS AT LAKE ROAD – LAKE ROAD/SHELTON AVENUE. Proposal to create a 40-unit residential development involving construction and grading within wetlands or watercourses and associated buffers.

Alan Shepherd, Professional Engineer
Ken Schiable, Applicant

Mr. Shepherd: We have proposed a 40-unit project. There is one wetland crossing off Lake Rd. on the east side of the project. All the units are outside of the 50' buffer. On the westerly side we show a wetland that was the area where the sewer line was installed and they did not back fill it. Now it is flagged as wetland. It is a man-made wetland system. We do have some units next to the sewer line but we are 50' from the old wetland area.

Commissioner Szkola: What is the difference in grade from the first floor to the basement?

Mr. Shepherd: About 4-5'. There are no steep slopes. This site (shown) was the assisted living project and I overlaid it on our project. With that project it would have been a cut and fill, with this one I can go with the terrain. To the credit of the Schiable's they did not want to touch the area in the front of the project (bordering Shelton Ave.) We went to Conservation Commission and the area was shown of the open space. I do have stormwater detention to the tune of 100 yr. storms on both sides of the streets. (The cross section was detailed). It is 3/1 side slopes on the sides for both basins.

Chairman DaSilva: Are the basins outside of the 50"?

Mr. Shepherd: They are inside the 50' area to collect the water at the low point. The grading is inside but the basin is right on the border. When you create the 3/1 side slopes it takes a little more land but I think it would be good in that area. I created a wet basin.

Commissioner Szkola: On the area where the sewer line is, what is the condition now?

Mr. Shepherd: It is upland soils and drops down and then backfills it.

Mr. Cook: It is walk-able and very open.

Mr. Shepherd: We thought about taking the pile of dirt that was supposed to be backfilled and putting it back. In this other basin I have a dry area and I have a sediment area to collect the sediment. I don't think I would be able to sustain vegetation in there.

Mr. Cook: There is a seed mix called a wet meadow that might be better suited. My comments are as follows*: 1. The applicant should investigate a shift of the centerline for a portion of E. Greyrock which should provide for better separation of lots and the wetland areas. Try and tighten up the curve so that the lower units that are tight could shift slightly to the north.

Mr. Shepherd: I took a look at that and by taking and putting a larger curve in there we could probably get another 7-10' in the units here. When we were in the workshops with P&Z, they wanted to us to move this one house (pointed out) so that the house adjacent to it is not looking at the back of the building. The boxes are 60' and everything is kept within the 60', decks and patios.

Chairman DaSilva: Are these age restricted?

Mr. Schiable: They are 1st floor master bedroom, adult oriented, two bedroom only. 2200 sq. ft.

Chairman DaSilva: How far are you from the 50' buffer?

Mr. Shepherd: The box would be on the 50' buffer but the house box includes everything. We will not encroach into the 50' buffer.

Mr. Cook: The reason to suggest that is for those houses to be able to realize a little bit more yard space behind the deck area.

Chairman DaSilva: This is a development where you are not going to have kids.

Commissioner Szkola: So you are benefiting 5 houses versus the one house up there.

Mr. Shepherd: Ken, since I am being squeezed by P&Z, could maybe this house go a little smaller, maybe a 55' box?

Mr. Schiable: It may end up to be a 55' box anyway. 60 was the maximum we would go.

Chairman DaSilva: If you agree to that then what we would request on those lots to get temporary approval and you have to come back when you get your building permit so John could stake the house and he doesn't sign off until you get an inspection.

Mr. Shepherd: That is fair enough.

Chairman DaSilva: That's what we need to do from now on, on lots that are questionable, where they give us the boxes are we are not sure what they are going to do. They would have to come back with an as-built of the foundation.

Commissioner Beattie: Is there some way you are going to delineate the wetlands?

Mr. Shepherd: We will do some small fencing and evergreens. A couple of yards will have fencing and couple will have a wall and some will have trees, just to break it up a bit. There will be delineation.

Mr. Cook: There are signs the agency has been using. On some of the administrative lots I have had them use a split rail fence rather than a boulder. That looks attractive and delineates.

Chairman DaSilva: I would request that you submit a landscaping plan to John Cook.

Mr. Cook: Continuing with the Comments: 2. There is a flow from the Bures property through the area of W. Greyrock Ct. This flow does not meet the criteria as a watercourse but flows to the wetland and is sufficient to cause significant problems later if not addressed at this time. The plans should reflect this condition and the designer should provide a means to avoid future issues.

Mr. Shepherd: I also noticed that flow. It is a type of a flow where someone was up there with a back hoe and left some ruts through there, so what might have been was sheet flow is now channeled. It is something you could step over. What I propose is a grass swale between units 24 & 25. There is a riprap field inlet to pick up that water.

Mr. Cook: 3. A wet basin is proposed for W. Greyrock. The area in question should locate and plot significant trees in the construction limit for this feature. Portions of the site are heavily wooded. If significant trees exist within these regulated uplands they may serve the wetland better and in their present state if in fact the basin doesn't need to be the size that it is. The basin may be shifted or rotated or adjusted if warranted.

Mr. Shepherd: I did look out there and the trees that are significant have been damaged by wind or lightening.

Chairman DaSilva: Why don't you flag them and John can go out and determine their condition. It would be more attractive for the neighborhood if they can be kept.

Mr. Cook: Continuing with the Comments: 4. The City Engineer report for this project is pending. A copy of the packet has been forwarded to that office. However, there was a miscommunication between staff and that office as to when to expect a report. 5. The applicant should have the plans reflect the intent of the construction envelope. It was stated at the last meeting that it was needed to show that the boxes reflect the house and the deck. 6. The detention basins should incorporate mitigation and/or stormwater basin plantings; to serve a dual purpose, stabilization and renovation.

Commissioner Szkola: I think you did a really good job on this.

Chairman DaSilva: The fact that you stayed out of the wetlands and the buffers, that is what we are looking for. The drainage doesn't seem to be a big issue here and he addresses John's comments and submits the request that I asked him to submit on both sides of the streets along the wetlands and you submit how you are going to address the separation of the wetlands in the backyards. We want to see that on the landscape plan and the points that John made on the landscaping. We need the engineer's report, so it would be subject to that. I would entertain a motion to approve that.

Commissioner Szkola made a motion to approve application #04-09 subject to the City Engineer's approval and item #2 of the WECO Report (*There is a flow from the Bures property through the area of West Greyrock Ct. This flow does not meet the criteria as a watercourse but flows to the wetland and is sufficient to cause significant problems later if not addressed at this time. The plans should reflect this condition and the designer should provide a means to avoid future issues.*) be addressed that we field determine the trees in the shape of the sediment pond on the West Greyrock Ct. and that a detailed landscape plan is provided to show delineation of the wetlands. The detention basins should incorporate mitigation and/or stormwater basin plantings. Three lots (#13, 14, 15)

have approval with conditions to come back to Staff with an as-built of the foundation plan before being signed off. The applicant's plans should reflect the intent of construction envelope, noting it contains the house and patio/deck. Commissioner Beattie seconded the motion. All were in favor, motion passed.

5. PERMIT-APPLICATION #04-11, SHANAHAN PROPERTY – 45 CEDARWOOD LANE.

Proposal to correct violation due to grading and to construct a swimming pool within wetland setbacks.

Fred D'Amico and Steve Bellis

Mr. D'Amico: We are here for a pool permit. It is an existing dwelling. We were granted a right to build a stonewall 25' from the wetland boundary and have the grass go up to the stonewall. It should have been arched and they must have lost a stake and made the wall straight. At this point (shown) it is 10' away from the wetland.

Mr. Cook: The wall was supposed to be 25' away from the wetland. When they did the work they went further than the approved limit and at the location Mr. D'Amico is pointing they are 10' instead of the 25'.

Mr. D'Amico: They should have followed the curve of the wetland. The grass is established. Mr. Shanahan wants to put in a pool. The proposed in ground pool is proposed 40' from the wetlands. We would be within in the regulated area for putting in the structure of 10' and we don't feel it would be any detriment to the wetlands. We are here for a permit for the installation of the pool and to get a correction to be able to leave the wall the way it is.

The layout of the house/pool was discussed.

Mr. Cook: From the comments: The application is submitted to sustain grading work that exceeded the scope authorized at the time the home was constructed. In addition, the purchaser of the parcel wishes to install an in-ground swimming pool within regulated buffer. The pool may be shifted slightly to the east to reduce the work within the buffer but tends to crowd the leach fields and therefore less desirable. The Commission may wish the material pulled back where the yard was made larger than approved. Alternately, and staff suggests this; that in so much as the area in question was upland before and is upland now but was cleared to make lawn, is to require planting the area in excess of the original and woodchip the surface. Staff suggests the above alternative is preferred to just restoring the area because had there not been excessive encroachment the pool would likely received a favorable administrative permit. This alternative the homeowner gets their pool and the upland buffer is reestablished through slightly higher elevation.

Chairman DaSilva: You lost me, what do you want them to do?

Mr. Cook: In that part where they made the lawn larger do some planting and some woodchips in there.

Commissioner Szkola made a motion to approve application #04-11 per the comments from John Cook: The pool may be shifted slightly to the east to reduce the work within the buffer but tends to crowd the leach fields and therefore less desirable. The Commission may wish the material pulled back where the yard was made larger than approved. Alternately, and staff suggests this; that in so much as the area in question was upland before and is upland now but was cleared to make lawn, is to require planting the area in excess of the original and woodchip the surface. Seconded by Commissioner Wilson. All were in favor, motion passed.

Chairman DaSilva left the meeting at 9:25 P.M.

6. PERMIT-APPLICATION # 04-12, CAPPIELLO ESTATES, SEC. 2 – KNEEN STREET.

Proposal to create an 11-lot subdivision involving watercourse elimination.

Hem Khone, Registered Engineer in the State of Connecticut

Mr. Khone: The proposal is 4.5 acres, subdivided into 11 lots. The layout was shown. We are proposing a 425' dead end road. There is a watercourse (detailed for the Commissioners) and what we are proposing is to pick up the watercourse and pipe it and connect it to the existing catch basin.

Commissioner Szkola: How many acres is the watershed that drains?

Mr. Khone: This looks like a spring. It is about 2 acres. (The wetlands and setback lines were pointed out). We are not touching the wetlands. We are just here because of the construction of

the road. The height of the head walls will give the proper drainage. Right now it seeps out on the road. It may ice up going into the catch basins.

Commissioner Szkola: Where does this go into?

Mr. Khone: It ends up into the Housatonic River.

Mr. Cook: There are remnants of what was a small watercourse. Once it crosses Kneen St. there is only a few places of it that exist as a watercourse. The majority of it has been incorporated into various road drains over the past 120 years. There are still several places that are watercourses below this site. From there it goes into storm drainage and encapsulated in old road drainage and goes directly into the Housatonic River. There is no drainage as-built for any of those street systems in the downtown.

Commissioner Szkola: So we are looking for zero increase in runoff since we have no idea what the voracity is.

Mr. Khone: I discussed this with the City Engineer because the property is not such that I could have a detention basin so I proposed storage into the piping. It is a 48" pipe to the manhole. I have a device in the manhole which controls the water and then lets it go what is existing now.

Mr. Cook: From the WCEO Comments: Staff has visited the site and first and foremost is the uncontrolled access on the parcel and resultant abuse should be considered a blighted and nuisance condition. The failure to control the site has led to regulated activities occurring without benefit of permit. It is staff understanding the landowner knows a principal party of this unauthorized use. That being said, the extent of the regulated area even without having the abuse is limited. The area proposed to be piped principally appears to be at best an intermittent watercourse. Lower reaches of it still exist offsite in the vicinity of Kneen Ct. Primary concern is the extreme grading associated with the proposed lots and the ramifications to the small but remaining regulated area downstream. Additionally, the office of the City Engineer may have concern with the affect of the additional piping on a system downstream portions of which have or may have unknown capacity. This application should be tabled until input from the City Engineer is prepared and there is a thorough discussion on the ramifications downstream and the ramifications of the severe grading. The City Engineer may wish to see some sort of structure or basin in the location of lots 10 & 11. With the grading implicated the applicant should provide some documentation as to the gas company's concerns if any, since it is adjacent to this parcel. There are 16' cuts proposed on this small piece of acreage.

Mr. Khone: We have approval from the gas company. We will not be excavating any of the area near the gas line. In this case I asked in my letter to the City Engineer to waive the technical requirement regarding grading the shoulder area here (shown) because it is too close to the gas line.

Mr. Ray Shook, Soil Scientist

Mr. Shook: There is a base flow (detailed) and behind that is a fill slope. There is a stormwater discharge on Middle Ave. I don't know if it has a base flow, it has a flow during storm events. It's function now is a flowage area for water. There is no wetland vegetation or wetland ecosystem. The advantage of piping it is now it is an active source of sediment going into your storm drainage system. The water coming out of it comes out pretty clean. Normally I don't suggest piping watercourses but this is a small segment, I think you can do it just as easy in a pipe as you can in a channel. The advantage is you eliminate a source of sediment into your stormwater drainage system.

Commissioner Szkola: Is there a viable stream at some point downstream?

Mr. Cook: There are a couple of more segments further down below on Kneen Ct. and on Carley St. This may, instead of going into the storm drains of century old proportions, might find its way over to Bearing Ground brook below Carley St. There are a couple of segments and so that is why in the first paragraph of my comments part of my concern in this additional piping if there is consensus there that there is no value there and the rest of it will be eliminated and what are the ramifications downstream, or 6 houses down Kneen Ct. The Commission may wish to look at all that so there is some concurrence so that in piping this there isn't a ramification for someone else downstream. When I was out there in the rain last week there was a fairly good flow even though it had limited capacity because East Ave. was overburden on shallow ledge. There are places you could see the ledge exposed and rock bluff. Even on Middle Ave. there is a rock cliff behind some of the houses.

Commissioner Beattie: I remember in the 50's when we had flooding in the valley behind Center St.

Mr. Cook: If the City Engineer is familiar with those structures that exist downstream and feels that old system has capacity and the small segments of watercourse that exist downstream would not be adversely affected by your proposed water storage in the oversized pipe, and in it's present form it has been abused by the past property owners and the neighborhood.

Commissioner Szkola: What about the cuts you are proposing?

Mr. Cook: Only just controlling them in the course of construction. Lots 4 & 5 you have an existing grade of 290+ and the first floor is at 283, so you have an extreme cut. On lot 4 you have a 16' fill on approximate 100% side slope. It is more of a construction management concern than a wetland concern.

Mr. Khone: We kept it larger, so to make sure what we proposed would be graded properly. We will make sure that it will be protected, with double hay bales or silt fences.

Commissioner Szkola: I don't want this to be the straw that broke the camel's back as far as the delicate system downtown.

Commissioner Zahornasky: The City Engineer should go over the calculations on the oversized pipe and structure to make sure it works.

Mr. Cook: Did you investigate it downstream?

Mr. Khone: No, I was doing the zero runoff. I asked to Bob to take a look and asked regarding storing it in the pipe. He said no problem and submit it to me.

Commissioner Zahornasky: Ok, so we will wait for the report from the City Engineer.

7. PERMIT-APPLICATION #04-13, KNAUF PROPERTY – 561 BRIDGEPORT AVENUE.

Proposal to create a site platform for office building construction involving wetland excavation and filling.

Wayne Jacobsen, P.E., Spath-Bjorklund Associates

Mr. Gary Knauf, Applicant

Mr. Jacobsen: I have several items to submit, the site plans revised to April 8, 2004, site photographs, a hydro geologic assessment, a letter from Old Route 8 Associates and a copy of the drainage study wetlands display plan.

This project was introduced at last month's meeting. We are looking to construct an office building, a pedestal building in the center of the site with a driveway that accesses Bridgeport Ave. To the south of us is undisturbed land. We are proposing a rock cut to create a pad for the building. The watercourse runs along the north side of the site, the west side of the side and along the southerly side discharges to a catch basin to the Wells Hollow Brook on the other side of the street. The letter to the Chairman covers the points that were discussed at the last meeting. I will use that as an outline of what I will discuss tonight. The first paragraph explains that these are items mentioned in the WCEO report.

The items we addressed are:

1. *The location of the building and the rock cut on the adjacent property, 555 Bridgeport Ave., which are shown on our plans now.*

Commissioner Szkola: Can you point out the building footprint?

Mr. Jacobsen highlighted the display map and detailed the rock cut.

2. *Preparing an Exhibit showing the "Big Picture". Our "Drainage Study Wetlands Display Plan" is a composite of 6 of the City's Topographic Maps, overlain with the Assessor's Maps, and have, in color, indicated the wetland soils and watercourses for that area, as supplied by the State of CT Dept. of Environmental Protection.*

Mr. Jacobsen explained the color-coding – wetland, muck soils, and watercourses – and details of the map showing the reference where the proposed building is and where the limit of the watershed is.

3. *Concerns for the continued existence of the watercourse and wetland complex which flanks our westerly and southerly property lines following the proposed blasting on this site. We are submitting a Hydro geologic Assessment. We are also submitting pictures of the existing ledge cut on the neighboring property. We expect no adverse impact to the existing wetland corridor.*

We were concerned by cutting the site that we were going to drain the water from the wetlands. We asked Russ Slayback from Leggette, Brashears & Graham to prepare a report. He is here tonight and will talk with you later. Based on the blasting program that we have for the site and the nature of the existing site we expect no adverse impact to the wetland corridor.

4. *We had test holes dug on the subject property to establish the depth from the existing ground surface to ledge. We chose 6 test locations between the proposed limit of rock cut & the wetlands which flank the site's westerly and southerly boundaries. The depth to ledge assumed in the planning stages for this project was 4'. The actual depths measured in each of the test holes was: 1) 30", 2) 50", 3) 36", 4) 31", 5) 23", 6) 30".*

The soil on top of the ledge is uniformly 2-4' across the site. It bore out what we expected to find.

5. *The cumulative effects of not providing detention. We discussed this with the City Engineer and agree that detention is not necessary for this site, given its location in the lower reaches of the drainage area for the receiving waters of the Wells Hollow Brook and the Far Mill River. The minimal increase in flows due to this site's development are best allowed to proceed downstream before the peak flows arrive from the upstream areas.*

We were looking at both the local stream and the larger river to make a determination of what impact this water would have on the whole system. As you pass through time and map water flowing it rises like a bell curve and goes back down. What we are doing by releasing the water immediately from our site and not detaining it, is we are putting a little blip in the rising part of the hydrograph so that the height of the hydrograph is where you get the flooding. We are getting our water in the rising leg of the hydro graph which doesn't have an impact on flooding. We have a situation where we are increasing the runoff because we have increase impervious areas but given the characteristic of the entire drainage area the best thing from an engineering perspective is to get the water out through the system before the bulk of the water from the watershed comes and both the Hollow Brook and the Far Mill River.

6. *Evaluation of the channel across the street. We are submitting a picture of the head wall and stone paved channel across the street that feeds our site's runoff to the Wells Hollow Brook. It is in good condition, and should be maintained in its existing configuration. The outfall lies within the State's right-of-way, and the District III office will have the final say regarding any proposed work.*

We are confident that it can take the increase in flow that we are proposing which is in terms of 1-3 cu. ft. per second in a 2-100 year storm.

7. *The scale of the development. We have worked to establish a limit of disturbance which preserves the valuable wetland resources on the site while maximizing the commercial value of the site. Our site plan allows for good vehicular circulation on the site, a safe means of access, and the long-term preservation of the stream corridor.*
8. *The rotation of the development. We laid out the site in concert with the available upland orientation, which has its longitudinal axis from front to back. Our parking layout allows for on-site circulation with standard 90 degree parking stalls, and is efficient for emergency vehicle access and egress. We set the limits of the parking as far as possible to the north while keeping the grading within the confines of our property. Rotating the development reduces the available parking and eliminates the use of a portion of the uplands on the site. We feel that we struck a balance between the need to preserve the wetlands and the reasonable use of this commercial property.*
9. *Moving our development to the north would require a grading easement from the Old Route 8 Associates. We contacted them and received their reply that they would not grant slope rights.*

Commissioner Szkola: On your grading it looks like it is around 207 for your parking lot and first floor, what is 555's?

Mr. Jacobsen: It is about 215 or 220 in the back. It is about a 10' differential.

Commissioner Szkola: Did you consider making it higher just so you don't have so much of a cut?

Mr. Jacobsen: Yes, because it costs money to cut rock. We came in and started at the existing elevation of Bridgeport Ave. at the centerline of the driveway. The state requires 25' at 3%. We honored that, then came up here at 12% climbing the driveway to get to climb up as quickly as you could in the early part and took the parking lot from this point to this point (shown) where there is a 207.1 contour and ran that at 7%. 7% is a design maximum for parking, so that when you open your door, it doesn't close on your leg. At the handicap parking the maximum is 2%.

10. *Matching the grading on the adjacent parcel is impractical. Our driveway starts out at a lower elevation than that on the adjacent parcel, rises as quickly as good engineering allows, and maintains a 7 percent slope to the back of the site where the handicap access is located. These grades minimize the rock cut necessary to create the building platform. The front of our parking lot lies at elevation 194.5, while the adjacent lot lies at elevation 203+/- . This 10' differential results from the difference in elevation in Bridgeport Ave. where each of the driveways begin. The elevation difference between the two sites increases as one proceeds to the west, since they have a quickly rising driveway south of their building to get from the easterly lot to the westerly parking lot, and our site has a continually graded parking area. If we extended our site development closer to their property, there would be a 10-15' differential at the property line, our lot being lower than theirs.*

11. *Ground water recharge. The location we examined for installing galleries was near the front of the site since it is a function that should be accomplished downstream of the sand/oil separator, to limit the chances of polluting the ground water. At that point, the invert for the pipes, which are set based on necessary pipe coverage, are approximately 9' below grade. With the limited depth to ledge on this site, the galleries installed for the recharge of storm water would be into the ledge. Given the limited extent of the drainage area impacted by this development, ¾ of an acre, and the relatively close proximity of the receiving waters (just across Bridgeport Ave.), we feel that the lack of groundwater recharge is not consequential.*

The sand/oil separator is a CDS unit. At the discharge we would put elbowed feeder pipes into the underground galleries to have a dead storage area that would recharge the groundwater. The elevation of the drainage pipe is relative to the surface of the earth. I am looking at minimizing the pitch on the pipe to 10%. You want to keep the velocity on concrete pipes to 10% or less. Because of the catch basins above and the coverage on the pipe and the invert for the pipe going out it would force these chambers to be about 9' underground. The ledge is about a foot in the front of the site. We have a situation if we put the chambers in we would be putting them in rock cut and there would be no feed back to the ground water. We did look at it but can't do it.

Mr. Cook: Is that alternative in the plan package?

Mr. Jacobsen: I did not put it in but brought a spare package for you. It is labeled Alternate B.

12. *Adding spot elevations and separating the Landscape Plan from the Erosion Control Plan, as requested by Mr. Cook, has been accomplished by moving the erosion controls to the site plan, and changing the title of the Erosion Control Plan to the Landscape Plan.*
13. *We added a 50' wetland offset line, in addition to the 25' offset line that appeared on our originally submitted plans.*

The wetland in the front of the site was an excavated bottle pit which is a low value wetland and that is why we decided to develop through it. They went in and cut rock and put a drainage system in, but it has developed wetland soil characteristics over time.

This is a challenging lot to develop, requires a significant investment for site development costs, and has limitations imposed by the ledge. We preserved the wetland corridor, and have sited a commercial building with well-reasoned appurtenances. A good balance between the need to preserve wetlands and the need for economic development has been struck.

*Very truly yours,
Wayne Jacobsen, PE*

Russ Slayback – Leggette, Branshears & Graham, Trumbull, CT

Mr. Slayback: I have had extensive experience with projects that require blasting. I have submitted a copy of my resume with the report. The report starts out with a description of the hydrogeologic setting of the property, the soil, the groundwater, and the characteristics of the main wetland corridor that flows through the site. It is an intermittent stream and is flood-plained. It drains about 15 acres of fairly steep slopes covered by relatively impervious glacial till soils and bedrock that consists of granitic schist and granitic gneiss. It is relatively impermeable bedrock. It is a wetland because it drains an area of relatively impervious soils and steep slopes that comes into a more flat area and drains across to a flat area. Figure 1 in my report details this. That area today is soggy soils and has a vigorous watercourse flowing through it. It is an intermittent water course that dries up every year. As a consequence of that when the stream dries up the soils adjacent to it gradually dries up as well.

Commissioner Szkola: Does that area have any storage capacity that acts like a sponge?

Mr. Slayback: Very little and temporary. The soils today are very spongy underfoot. The soils are relatively thin. Wayne said you were interested in soil thickness. We put down 44 probes and we got depths to rock of 0.2' to 3' 8", which is good confirmation of what Mr. Knauf saw. Picture 2D shows some of the shallow ledge that is outcropping. Rock removal by blasting is the guts of my report. Bill Brennan will be the rock excavator on this property. He noted that you have to be careful because of the property next door plus the characteristics of schist and gneiss means you have to really work your way into it by learning how the rock behaves by starting out with small blasts. A well planned and a well executed blasting program should cause absolutely no rock breakage more than 10' into a finished face, and in most cases less than that. Think about the rock cuts you drive by every day where you can see the holes in the faces, the rock is not busted up, it is sheared off the way the blaster intended it to be. The top of the proposed rock cut is 22' from the edge of the wetland flood plain, near wetland flag #26. In the rear the closest place is 40' near wetland flag # 28 and the distance to the rear exceeds 60' to the stream. In conclusion, the present condition with the small rock excavation plus the conditions on the adjacent site where they have a rock that has been there a very long time you see very little seepage at the base of the slope. I don't think there is any reason that the rock removal for this development, whether blasting or not, will change the natural flow regime or the seasonal wetting

and drying of the flood plain soils. The blasting will not cause fracturing of the rock anywhere near the wetland boundaries. I expect that the final rock faces will be essentially dry at most times and free of significant groundwater seepage. There will be traces at the bottoms of the slopes and you can see that today.

Mr. Cook: The green standpipes that are out there, adjacent to the wetland corridor, are they your installation?

Mr. Slayback: They are not ours. I did not see them.

Mr. Cook: There a lot of material that came in tonight and a number of items that Wayne hit on did respond to most of what was in my report. One thing that you mentioned in closing regarding a well planned and executed blasting program. How does one control that physically on the site to stay within the assurances that you have presented tonight? If it is not well planned and executed and it does not follow the intense drill holing that you mentioned for highway cuts, if that is not in control, I would suspect if they don't learn the rock as they go along and they say, we can go x amount of feet and lay in a charge that would be more effective in removing the rock faster, then the odds are that they would not be following the intent of your report, they are going to be moving earth. How are you going to control that in the field? The other was where the old cut is now, even though the machine went into do the test holes, it is small and it is wetland, so that little excavation that is of some vintage there is some seepage that has led to the formation of wetlands. That is seeping water out and is over 100' from a wetland. The machine should not have been dozing through there without authorization from the agency and how do you address the fact that you say there is a 30' cut and there is not going to be any seepage and its going to be a dry wall yet where we have a 15' wall we have seepage?

Mr. Jacobsen: Where we accessed the site, we did it at the request of the Commission. The Commission was aware of the steepness of the site and that was the only manner to get to the site. It was the only practical manner.

Mr. Cook: That being said, there should have been contact with the office before going out there.

Mr. Slayback: I don't think my testimony was that there would be no seepage. The degree of seepage would be the same extent that you see at 555 and as well as at the base of this site. The amount of water that is in that wetland and already showing signs of the mud drying up, that is largely runoff from this whole hillside that topples over that slope. I think that if you look at both slopes it is relatively dry. In the lower section of the slope, you can't quantify the water coming out, it's just wet. Blasting, how do you control it? I think the answer is the quality of the people you hire. I think Brennan is very experience and I felt he was thoroughly in tune with the things that have to be done at this site to make it safe and to eliminate any possible liability claims from neighbors. Mr. Brennan wants to do this blasting because he wants to use the rock and done so that he only has to do it once.

Mr. Cook: Several things have been addressed but I have to go through what was presented tonight. I still have some concerns regarding the pictures and where the topography is shown. I don't see a flat area of a parking lot, it only shows the contours.

Mr. Jacobsen: I did exactly what was requested. It showed the limits of the blasting and I showed the location of the building. The building was shown on the town profile. We did not topo the site. If you look at the grades of the site you can see the first floor of the building and this rises just above it and pitches to the back and drop a foot after you get to the back of the building and under the corner of the car(Shown in photo), is the catch basin. I submitted 4 pictures.

Commissioner Zahornasky: I think you have been more than thorough.

Mr. Knauf: You asked for a photo over an elevation. (Showed the drawing of the building). I received a variance for the height from zoning. I am willing and able to address all of your concerns, whether it be a consultant on the site for the rock or any other issues. We spent a lot of time analyzing this site before coming in here.

Commissioner Szkola: We need to give time to John and the City Engineer to digest all of this and discuss it at next month's meeting. We do have a concern about the wetland being dried up, but I think we can solve it by a surety bond and hold it for a year.

Mr. Knauf: No one is going to be more concerned with the blasting mechanism than I am with Bill Brennan. I don't want him to create problems with this site.

Commissioner Zahornasky: Let John review this and we will get together at next month's meeting.

C. NEW BUSINESS

1. REVISION APPLICATION #04-15, WIACEK FARM ESTATES – MEADOW STREET/CONSTITUTION BOULEVEARD NORTH. Application to modify permit involving changes of road construction and design.

Jim Swift, Civil Engineer

Mr. Swift: This subdivision was approved by this Commission a few months ago in the form where it came in off of Meadow St. We had quite a few mitigation basins in the setbacks and P&Z has requested we come back to this Commission with alterations. These will drastically reduce the impacts. P&Z has requested that instead of coming in the subdivision off of Meadow St. that it come in off of Constitution Blvd. Instead of the open space being concentrated against Constitution Blvd., that it be aligned with the high school property. The disturbances that the Commission approved last time are in the exact same location. The third crossing that the Commission approved has been eliminated. The disturbances are in exactly the same spot as before but slightly smaller because we were able to change the angle of the road and are smaller because we were able to eliminate the crossing of a wetland area. We had at the previous approval .26 acres of wetlands filled, now we have .15 acres of wetland filled. Previously we had 3.57 acres of buffer disturbed, we now have 2.8 acres of buffer disturbed. There is one minor change to lot 11. P&Z asked us to push the back of the house back. We are now asking to come 40' from the wetlands with the house and to move the disturbance line up to the wetland limit line. Consider that this is an open hayfield.

Commissioner Szkola: That was based on soil tests that were done in the snow, right?

Mr. Swift: That is the only change that I would say as more of an impact, even though our total buffer area disturbances are less than previously considered.

Commissioner Szkola made a motion to approve application #04-15 subject to the following conditions:

1. City Engineer final approval
2. Acceptance on the different regulated activities by these plans.
3. Final tabulation of regulated area impacts and regulated activity impacts.

Seconded by Commissioner Wilson. All were in favor, motion passed.

2. REVISION APPLICATION #04-16, LEWS PROPERTY – 299 BRIDGEPORT AVE. Application to modify permit to include discharge to watercourse.

Richard Lewis, 299 Bridgeport Ave.

Mr. Lewis: I am here to submit a change or an omission from our original permit. We failed to note the discharge of the gutter and the foundation drains, which are separate on to the property.

Mr. Cook: If the Commission recalls this is application #01-28. There was substantial addition to the home. There is a plan that was submitted. There are two additional regulated activities, footing drains and roof leaders that were not plotted. The discharge was one to the wetlands and one to the brook. There was some concern by one of the down stream property owners so I indicated to Mr. Lewis that the best way to handle it would be to submit a revised application. The 4" pvc footing drains terminate at the edge of the brook and 4" roof leader terminates at the edge of the wetland.

Commissioner Zahornasky: So, basically no problem.

Mr. Cook: Just to basically make the record clean.

Commissioner Szkola made a motion to approve application #04-16, seconded by Commissioner Wilson. All were in favor, motion passed.

D. OTHER BUSINESS

1. BUFFER-APPLICATION #04-08, FITZGERALD ACRES, LOT B – 64 THOMPSON STREET. Staff update regarding proposal to construct a single family dwelling within buffers to regulated wetland.

Mr. Cook: This was a lot on Thompson from the former Fitzgerald property that was going to be a nursery, but never came about. They did install the septic system per the approved plan in 1995. The plan and permit expired, the individual passed on, and the family sold the lot. We got a new application for a different activity and did approve it administratively. They did pull the house further from the wetlands than the plan in 1995. I did approve it subject to installing a split rail fence and the wetland boundary signs. They had to further demarcate the portion of the wetlands

that was allowed to regenerate and has still has been periodically mowed. That will be part of the record for this application.

2. BUFFER-APPLICATION #04-14, ROMANO PROPERTY – 6 DAYBREAK LANE. Proposal to construct a home addition within buffers to regulated watercourse.

Mr. Cook: Existing home, this is for a home addition. I acted on this administratively with no conditions because even the addition was within the setback it was on the front side of the house but the house size was such that it was still within the regulated buffer. The existing yard had been since Daybreak Lane was put in several decades ago. No wetlands were involved, just an intermittent watercourse.

3. WHITE HILLS RECREATION COMPLEX –EAST VILLAGE ROAD. Failure to comply or respond to Commission directives.

4. LEAF COMPOSTING FACILITY – SOUNDVIEW AVENUE. Failure to comply or respond to Commission directives.

Commissioner Szkola: Issue a violation, for this one and the next item.

Commissioner Zahornasky: We can handle both items at the same time, right?

Mr. Cook: Yes.

Commissioner Beattie: Failure to respond? All they had to do was walk down the hall and talk to you.

Mr. Cook: Chairman DaSilva had asked me to contact Corporation Counsel and I did speak with them in the office. It is consistent with what I have heard from their office during this administration and past administrations is, the City is not exempt from its own regulations and whatever the Commission chooses from violations, to stop work orders, to court actions are fully available at the Commissions disposal.

Commissioner Zahornasky: What did the Chairman say?

Mr. Cook: I haven't gotten back to the Chairman on it but did speak with Corporation Counsel, Tom Welch, was going to contact the Mayor or the Superintendent of Highways & Bridges and tell them they need to comply.

Commissioner Beattie: Can we put a stop work order on them?

Mr. Cook: I have two letters dated March 30, and there is still no response. On the letter regarding the White Hills Rec. facility, the letter asked for attention by February 13. That letter asked for response before this meeting.

Commissioner Zahornasky: Take the files and give them to Corporation Counsel and we will give you some time to work on it.

Mr. Cook: There are still 3 tiers at any time the Commission can skip at tier. The next step is a violation letter, followed by a stop work order, followed by court action. If the Commission wishes you can go to any level.

Commissioner Szkola: I say go to a stop work order. We don't want any more sand coming down and dead deer.

Commissioner Beattie: Part of this problem affects Mr. Bova, right?

Mr. Cook: Yes, part of it is.

Commissioner Zahornasky: Because we have gotten no response, let's at least put the stop work order on and maybe they will come and talk to us.

Mr. Cook: In your packets you have copies of the letters. We did receive a complaint from the DEP, or a referral. I have had conversations with the enforcement section and the Conservation Commission's agent who was out there with the recycling office and they are not too happy because it is not in compliance with the State guidelines.

Commissioner Szkola made a motion to request that the City submit a formal application on how they plan to remedy the problems at the Leaf Recycling Facility and the White Hills Recreation Complex be submitted by the May, 2004 regular meeting. Seconded by Commissioner Beattie. All were in favor, motion passed.

E. MINUTES

1. **Commissioner Wilson made a motion to approve the January 8, 2004 Regular Meeting minutes, seconded by Commissioner Beattie. All were in favor, motion passed.**
2. **Commissioner Beattie made a motion to table the February 11, 2004 and the March 11, 2004 meeting minutes until the May meeting. Seconded by Commissioner Wilson. All were in favor, motion passed.**

F. ADJOURNMENT

Commissioner Szkola moved to adjourn the meeting at 10:45 P.M., seconded by Commissioner Beattie. All were in favor, meeting adjourned.

Respectfully submitted,

Marianne Chaya
Clerk, Inland Wetlands Commission
3 Tapes are on file at the City/Town Clerk's Office
*A complete copy of the WCEO Report is on file in the Inland Wetlands Office