

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. BUSINESS MEETINGS

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

III-B. OLD BUSINESS

1. PERMIT-APPLICATION #11-07, DERBY SHELTON ROTARY CLUB PAVILION – CANAL STREET. Proposal to construct a pavilion structure within Housatonic River setback.

III-C. NEW BUSINESS

1. PERMIT #11-04, SHELTON UNITED RECYCLING – 90 OLIVER TERRACE. Request for waiver of application, permit, and surcharge fees.

2. PERMIT-APPLICATION #11-08, SUPRONOWICZ PROPERTY – 16 FAIR OAKS DRIVE. Proposal to remove trees within upland review area and install foundation and curtain drain to discharge to watercourse.

III-D. COORDINATOR REPORT

1. Administrative Permit Applications

VI. MINUTES

1. June 9, 2011 Regular Meeting

V. ADJOURNMENT



*CITY OF SHELTON
INLAND WETLANDS COMMISSION
REGULAR MEETING MINUTES
Thursday, July 14, 2011
7:00 P.M., Room 104*

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

I. PLEDGE OF ALLEGIANCE

All in attendance recited the Pledge of Allegiance.

II. ROLL CALL:

Gary Zahornasky, Chairman
Celeste Beattie, Commissioner
Jack Goncalves, Commissioner
Neil Hayes, Commissioner (arrived 7:10 pm)
Charlie Wilson, Commissioner

Absent: Robert Dunford, Commissioner
Ken Nappi, Commissioner

Also Present: John Cook, WCEO
Sophia Belade, Clerk

III. BUSINESS MEETINGS

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

No one from the public wished to address the Commission.

III-B. OLD BUSINESS

1. PERMIT-APPLICATION #11-07, DERBY SHELTON ROTARY CLUB PAVILION – CANAL STREET. Proposal to construct a pavilion structure within Housatonic River setback.

Jim Tate
Landscape Architect

I'm here tonight to ask for Wetlands approval for a structure that the City and the Derby Shelton Rotary Club is proposing to build down at the Veteran's Riverwalk Park. Location as you can see on the site plan the Veteran's Memorial is here, the Farmer's Market, Cornell Street, Canal Street and we're talking of building a 2600 square feet into the corner here. The reason we're here is we're 68' back from the edge of the existing bulkhead or overlook of the original Riverwalk Park. It's a slab on grade with pilings beneath the construction. The difficulty of this site is if everyone remembers, this was a remediated site so that 4' down we have a protected barrier fabric, so we can't penetrate that without posing that out. That's why the pilings system was used. We're using about 20 pilings and then we put a grade beam around the perimeter and then we have an 8" reinforced concrete slab. It's not enclosed; it's an open air pavilion. This view gives you the indication of the construction. It sits about 1' above grade. We have handicap accessibility to the building. As far as the site work component of it, there isn't any. The City will be responsible to grade, there is no landscape right now under contract. We will put it to lawn at the end to stabilize it to site but there is no shrubbery or trees or plantings. There are utilities that service it from Canal Street. They go down 24" and that's the extent of the site work on. It's a fairly simple construction project in that regard. It's a fairly complicated one in the foundation system.

Commissioner Beattie asked what kind of utilities are you talking about like phones. Mr. Tate responded there is no plan for a phone but there is a wiring for a security system, power and also water. We have water down there, but the water will be a new potables one coming off one of the services and if you remember when the original Riverwalk was done it was divided into 3 or 4 parcels that were going to be sold for business purposes, small manufacturing, so the utilities were stubbed off for those 3 or 4 parcels. Since that time the City bought that piece for the City, those connections are still there. We're able to make a fairly easy utility connection; the City will make that connection not the contractor builder. The client is the Derby Shelton Rotary Club. They are the sponsor benefactor and they are putting up a specified amount of money. The balance will be paid by the City. We have a contract right now with a contractor, I'd prefer to not say who that is, we've accepted 2 of the 3 lowest bids and we interviewed them based on their qualifications and who would give the best service to the City. The one we chose wasn't the lowest but they gave a number that was very close and that's who we're looking to come up with a final contract. They are very qualified, they have experience in many of the main facilities we have around the City and the Valley. We're pleased that we got a great price from a good contractor for this project. The status of this right now is that the City has to approve the balance of the appropriation and the balance of the contract. The funding is already on

place from the Derby Shelton Rotary Club. So we are actually ready to go. Our goal is to start this in August, no later than August. My goal was to start in April and to have it completed by the winter construction shut down season. Obviously it is a complicated structure because the Riverwalk is a high demand area. Any time you take it out of use for anything that's probably not a great thing so what we want to do is minimize the window of building so that we can allow full use of the open space.

John Cook stated that there were 2 administrative items from the last meeting which was the signature of applicant and owner and those are now in place and part of the file so that administrative details have been satisfied. Mr. Tate continued I should mention this for the record that the Administrator of the project is SECD, James Ryan, President. The Builder/Owner is the Derby Shelton Rotary Club, current President is Kevin Fields, Diane Stroman was President when we started this contract. John Cook continued that the only other question I had was pvc storm pipes that are going to tie into the existing rcp to drain to the river and it says to be installed by others. Are they just picking up the drainage from the grass because there is no pavement here because this is all lawn? Mr. Tate replied there is a 2' brick apron that goes around the perimeter of the building. They are pavers, dry set. There is a French drain system or a leader drain system that's tied to the catch basin by the overlook. They are going to be installed by the City. The contractor is not responsible for storm drainage. John Cook continued that the last point I had is in the shaded area on the L2 grading plan, where it says lawn, there is something that is printed underneath here that has an arrow pointing to the existing drainage, it is possible to get that and arrowed here so it can be read. Mr. Tate responded sure. That's actually from the original ghosting plan; it's from the original as built. It's storm drainage information but that's not a problem. That shaded area is an option, its stabilized lawn.

Commissioner Beattie asked if there are water problems. Mr. Tate responded we have water problems that are generated by compaction of use, but the base material that is down that was fill was pre-draining material and it works quite well. Where we get in trouble is when some of the topsoil has been compacted through events that are down there and then it never properly arrogated through the season and put back. The plan is that when we're done with this structure is to arrogated that area down there and get it for more field use. Soccer was the primary field use that they were hoping to use that area for long term. In order to do that, unfortunately with all the different types of uses that go down there I don't think it's worth the money to go and renovate that field more than doing the Spring/Fall aeration. The underlying 4' and it's a graded material and it drains quite well. But there are a couple of spots where its been worn. This structure will not effect any drainage system where we're putting it.

Chairman Zahornasky stated and you're satisfied with the pilings that are going to be put there? Mr. Tate responded these pilings are what I call belt and suspender situation. It's overdone and it's costing a lot of money to do it this way. The reason it's done this way is so the penetration through that barrier is sealed. That's one reason. The second reason is that with the test borings that were done there you go down the 1 hole and you hit 2 layers of different thickness concrete slabs. So in a piling design it's more involved, you go down

1 slab. There really is no loading on this foundation. What it's really protecting is the upload. The upload is designed for these pilings to go through these concrete slabs. In order to get through these slabs we have so much loading onto this that it's so over designed. Our structural people tell us that's what is underneath that, that we can't depend on that loading. So that's why the pilings system designs. There is a way to do it if we excavate all the material out and put back a structural material and then do that material but we've had some months of back and forth with the State on trying not to create excavations. It really came to the conclusion with minimal excavation and minimal effort was the way to go. That's how the pilings system fit the bill. The piling system is expensive; we'd like to spend the money above the ground and not below the ground. It's a very strong foundation, so we're not worried at all. For cost reasons I would have gone a little less on the structure if I could have but we were dealt a hand that we really couldn't get out of. What seemed to be a simple structure became very complicated for reasons of the site. All we're waiting for is Mayor Lauretti to agree to funding and the Rotary will move ahead. David Grant, hats off to him, he did a wonderful job fundraising.

Commissioner Wilson motioned to approve PERMIT-APPLICATION #11-07. DERBY SHELTON ROTARY CLUB PAVILION – CANAL STREET. Proposal to construct a pavilion structure within Housatonic River setback. Commissioner Goncalves seconded the motion.

A voice vote was taken; motion passed unanimously.

III-C. NEW BUSINESS

1. PERMIT #11-04, SHELTON UNITED RECYCLING – 90 OLIVER TERRACE. Request for waiver of application, permit, and surcharge fees.

Ben Perry
United Recycling

Thank you for taking a second look at this. I didn't have an opportunity to come to the last meeting, I was unaware of it. I know John said he had called but it was after 4:30 and we didn't have a service set up after that time. I wanted to be here to see if you had any questions for me. I just want to say I was caught a little off guard with the amount.

Chairman Zahornasky stated unfortunately you're in a tough spot because that's the way the regulations were put in. Sometimes you get caught between the cracks. It might have been an oversight on your part but you still have to follow the same regulations as everyone else does. Most of these surcharge fees are because at the time a lot of people were not following regulations, so we tried to set up penalties and that would stop. Sometimes we waive the fees and it's mostly for non-profit and if we were to waive your fees it would open up a Pandora's Box. I understand that it was an error on your part and it wasn't willful but the next guy that comes in and does it on purpose, he's going to ask for the same thing. We don't want that. Vice Chairman Wilson was the one that made the

motion to approve the fees. We all voted on it, we want to uphold the regulations. We're sorry but that's the way it is. Mr. Perry continued I understand and I appreciate that. We did put a border around the entire property and we did put trees in. All the work's been done. Commissioner Wilson stated maybe a suggestion, I'm not sure if we could this or not and I'm not sure if we've done it in the past, but with the economy can we give him a payment schedule of some kind instead of a lump sum payment, if that would help. John Cook stated it hasn't been done in the past. I'm sure that if everything is with mutual consent it can be done.

Commissioner Wilson motioned that PERMIT #11-04. SHELTON UNITED RECYCLING – 90 OLIVER TERRACE. Request for waiver of application, permit, and surcharge fees not be granted. The requirement for paying the fees are as such: starting August 1, 2011 the applicant is to make six consecutive equal monthly payments until fees are paid in full. Commissioner Beattie seconded the motion.

A voice vote was taken; motion passed unanimously.



City of Shelton
Office of Inland Wetlands Commission
54 Hill Street
Shelton, CT 06484-3267

John R. Cook
Wetland Coordinator
203-924-1555 ext. 23
Fax: 203-924-6980
j.cook@cityofshelton.org

**WCEO REPORT
JULY 14, 2011**

PERMIT #11-04, SHELTON UNITED RECYLING – 90 OLIVER TERRACE Request for fee waiver

In response to the Commission denial for fee waiver at its May 2011 meeting the applicant has filed a new request for fee waiver of application, permit and surcharge fees. Staff refers back to the applicant's March 2011 request and Staff report of April 2011.

In so much as the applicant has taken exception to the Wetlands office we will respond to this new request on a paragraph by paragraph basis.

Ph. #1 – The material deposited is more generally recognized as grindings not a pure mulch product. Either way still fits the Commission definition as fill material.

Ph. #2 – Agreed that the parties initially responded to take action to correct the condition. However, the entire area was not corrected. Material was pulled back but not far enough to remove the activity from the Commission jurisdiction, hence the rationale for the violation citation. Proper application and documentation did not occur for many months: Citation April 2010 ---- Application submittal March 2011. Agreed that no wetland soils appear to have been affected the area is an upland review area to a watercourse. The markers installed to prevent a reoccurrence replace the State property markers filled over with the wood product. The DOT representatives that staff spoke with were not pleased with the encroachment and supported any Commission efforts short of requiring more machine work. Only one tree is indicated every 50' with no size specification. The Commission could have required additional trees but did not stipulate as part of any conditions. This saved the applicant substantial funds.

Ph. #3 – While no doubt funds were expended to make corrections and filings it is not necessarily germane to the Commission fee. And contrary to their assertion, the matter is a Commission regulatory issue which is why it has been before the board so many times. Whether the material was clean or not; its effect has smothered many mature trees along the upland review area in question. The Wetlands office did not demand removal of the encroachment but was offered as a choice to allow compliance and remove the trigger for the application processing. This practice has been used by the office with Commission support for many years.

Ph. #4 – Must disagree with the lack of being made aware of the proceedings. The applicant presented their request March 29, 2011 for the April 2011 meeting along with the application materials. Fees are normally submitted with the application and the March request detailed in completeness their rationale for waiver. Staff had either conversations or meetings with principals of the company or their agent about the process. The Commission was provided a copy of the request for waiver before the April meeting and the Commission discussed and acted upon it at its May meeting after the applicant's telephone request in April.

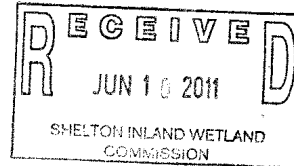
In closing and with all due respect, given the duration and effort at the taxpayers and Commission expense the amount of application fee, permit and surcharge should not be held unreasonable. From discovery April 2010 the operation at this processing facility has been maintained. As an aside and in fact the operation has been expanding over the years, which in part most likely led to the encroachment in the first place. Finally, the fees associated with the matter, by the applicant's own admission in their June 10, 2011 letter, "We pay the City of Shelton...taxes well over \$50,000.00 every year" represents a one time cost of only 0.06 or six percent of those annually recurring taxes etc.

11-04

UNITED RECYCLING OF SHELTON, LLC
90 Oliver Terrace,
Shelton, Connecticut 06484
Telephone: 203-929-5488 Fax: 203-929-5489

June 10, 2011

City of Shelton
Office of Inland Wetland Commission
Attention: Gary Zahomasky, Chairman
54 Hill Street
Shelton, CT 06484



Dear Board Members:

We respectfully petition the Office of Inland Wetland Commission to waive the fee required by Section 18 of these regulations in the amount of \$3,120.00 charged to United Recycling of Shelton, for inadvertently encroaching onto state land with wood mulch.

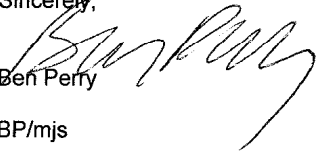
As soon as we were made aware of the encroachment, we took immediate action to repair, restore and stabilize the entire area. We have been in touch with DOT and worked with John Cook from Shelton Wetlands to formally comply with proper applications, maps and information requested by both DOT and Shelton Wetlands. No wetlands were affected and DOT has been satisfied with the actions taken to repair the encroached area. We have agreed to plant trees along our border, which planting has already been in place. Markers have been implemented to prevent this from happening in the future.

The amount of money and time to correct our inadvertent action has cost us over \$15,000.00. In this economy, we are struggling as most companies are, and any additional expenses are detrimental to our future. There was never a wetlands issue. The encroachment was inadvertent, and only clean wood chips were on State land along the highway. No city or other private land was effected trees have been replaced and will continue to be. CT DOT did not want us to repair any area, only to stop encroaching. The repairs demanded by Shelton Wetlands were implemented immediately and were extremely expensive. We take exception to the response from the Wetlands office. We pay the City of Shelton taxes on this property and other related business taxes well over \$50,000.00 every year. Please consider the economic situation and the overall circumstances.

Thank you for reviewing this matter again, and please let us know when we can address the Commission. We were not made aware of this matter until after operating hours from this office last time, and we would appreciate a chance to defend these charges.

Again, we request that all penalties, fines and fees be waived. Thank you for your time and courtesy in this matter. If there is anything future your board needs, please contact us.

Sincerely,


Ben Perry

BP/mjs



City of Shelton
Office of Inland Wetlands Commission
54 Hill Street
Shelton, CT 06484-3267

11-04

John R. Cook
Wetland Coordinator
203-924-1555 ext. 23
Fax: 203-924-6980
j.cook@cityofshelton.org

WCEO REPORT
April 14, 2011

PERMIT-APPLICATION #11-04, SHELTON UNITED RECYCLING – 90 OLIVER TERRACE.
After-the-fact application to sustain mass wood chip fill within upland review area and request for waiver of application, permit, and surcharge fees.

STATUS: 1. New Application
2. 65-day clock to decide action or hold public hearing expires June 18, 2011

PLANS: UNITED RECYCLING OF SHELTON LLC
Boundary Site Development Plan 11/120/09 Rev. 3/22/11

COMMENTS:

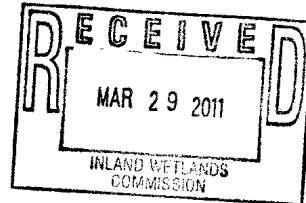
- Violation issued April 22, 2010.
- The application and plan is in order and shows the approximate 10,250 SF of upland review area that was filled within the State Route 8 ROW.
- While the applicant did remove some of the chip fill they were unsuccessful in removing all the material that triggers the application. State Highway fencing was damaged or destroyed and/or monuments disturbed or covered must be uncovered and/or replaced per the State Encroachment Permit. (copy attached)
- Staff has had numerous conversations with the applicants and multiple telephone interviews with DOT representatives, (Mr. Mocadlo and Mr. Barnes). Both DOT officials expressed support in whatever the Commission's efforts are short of requiring more machine work.
- In spite of the applicant's efforts to remove the volume of chips it appears numerous mature trees have succumbed to the fill over the root system. There is insufficient numbers of tree replacement. No size is specified and only one evergreen tree in 50' is proposed. This should be increased dramatically.
- Regarding the request for waiver, we can state unequivocally there has been many hours spent reviewing aerial photographs, preparing letters, preparing maps, telephone consultations, electronic communications and personal meetings invested in this matter. This is a large commercial operation and while the Commission has waived some modest fees of surcharges in the past including but not limited to (a single tree, modest deck, expired house certificate etc.) staff points out the following matters where the surcharge fees let alone the base application and permit fees were not waived.
 1. Pytko Property – Byron Place. Widow landowner conducted channel work without permit.
 2. Blakeman Property – Maple Avenue. Builder cut trees near wetland without permit.
 3. Connecticut Route 110 ROW – Builder cut trees within state ROW without local permit. The base application and permit fee is \$795.00, the surcharge on the application fee is \$1500.00 and the surcharge on the permit is \$825.00.
- Finally staff points out the applicant's history on the site included the construction a 15,000 SF building without building permits in place. In September 2007 the process was initiated to secure permits with this office and not until December 2008 did the applicants apply to the health department to complete the procedures for processing.

11-04

UNITED RECYCLING OF SHELTON, LLC
90 Oliver Terrace,
Shelton, Connecticut 06484
Telephone: 203-929-5488 Fax: 203-929-5489

March 25, 2011

City of Shelton
Office of Inland Wetland Commission
54 Hill Street
Shelton, CT 06484



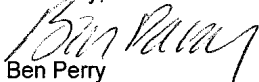
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As soon as we were made aware of the encroachment, we took immediate action to repair, restore and stabilize the entire area. We have been in touch with DOT and worked with John Cook from Shelton Wetlands to formally comply with proper applications, maps and information requested by both DOT and Shelton Wetlands. No wetlands were affected and DOT has been satisfied with the actions taken to repair the encroached area. We have agreed to plant trees along our border and planting which has already been in place. Markers have been implemented to prevent this from happening in the future. The amount of money and time to correct our inadvertent action will be over \$3,120.00.

Again, we request that all penalties, fines and fees be waived. Thank you for your time and courtesy in this matter. If there is anything future your board needs, please contact us.

Sincerely,


Ben Perry

2. PERMIT-APPLICATION #11-08, SUPRONOWICZ PROPERTY – 16 FAIR OAKS DRIVE. Proposal to remove trees within upland review area and install foundation and curtain drain to discharge to watercourse.

John Cook stated that the owner of the property is en route. It's an existing property; the home was built in the early 60's. It's a very small ranch, a very wet lot. It was probably carved out of the wetland area and out of the hillside. The land slopes on the north side, it slopes upwards, on the west side slope upwards which would be to the left side of the sheet and then towards the south side is the watercourse proper which flows between the two properties. When they first approached me about doing some cleanup, the house had been abandoned for quite some time, it was overgrown. What we have for data because the lot was so old, $\frac{3}{4}$ of the lot was wet. I told them that we either had to go by this, because I don't have any more detail analysis, they got a soil scientist which they did transfer on to this site plan here. A copy of the report is attached to their file. Some of the upland review work is removing some of the large red maple trees that are now leaning over the structure after the 40-50 years that they've been there. The regulated activity that the Board needs to look at is there's 2 drains. 1 for a foundation drain, 1 for curtain drain that they wish to discharge to the watercourse. That's the regulated activity. However, the watercourse is not on their property. It's actually on a neighbor's property which complicated it somewhat because that property is owned by the 4 siblings of the original owner. They did get letters from each of the 4 owners authorizing them to get onto their property so those curtain drains and foundation drain inverts can actually reach the watercourse. That's the scope of the work, is to remove those trees that are identified and the authorization to discharge by those 2 points which are identified by this location here as the curtain drain and that spot there is the foundation drain. The septic system is in the rear.

Iwona Mazawowicz, owner had arrived. Commissioner Hayes questioned the distance separating the leech fields to a drain. John Cook stated although actually what this curtain drain is going to do is sever water that is now flowing over the system. The grade of land, you would have an intermittent watercourse here this off flows this way towards the back wall of the foundation. So it's actually flowing over the leech fields. Commissioner Hayes stated there has to be a certain separating distance so put in a new pipe, possibly a French drain. John Cook asked what the difference between a French drain and a curtain drain is. Commissioner Hayes stated curtain drain is what picks up the water from the foundation, that's what I consider a curtain drain and a French Drain like at a golf course collects more surface run off from a certain sheet flow. The curtain drain is below the foundation footings. (hard to hear what else was said) So if this is high it won't happen.

Everyone talking at once.

John Cook continued everything along the top of the sheet is all pitched towards the house; everything on the left side of the sheet is pitched towards the house and then you have a watercourse. Actually on the front is a little high.

Commissioner Hayes asked the home owner if there is water in the basement. She responded a little bit on the left side. John Cook asked if these are 4" pipes that she is proposing. She responded yes.

Commissioner Hayes motioned to approve 2. PERMIT-APPLICATION #11-08, SUPRONOWICZ PROPERTY – 16 FAIR OAKS DRIVE. Proposal to remove trees within upland review area and install foundation and curtain drain to discharge to watercourse; as shown with discharge points and the curtain drain to have some kind of modified rip rap that would be pre-approved by John Cook. Commissioner Wilson seconded the motion.

A voice vote was taken; motion passed unanimously.

III-D. COORDINATOR REPORT

1. Administrative Permit Applications - None

VI. MINUTES

1. June 9, 2011 Regular Meeting

Commissioner Beattie motioned to approve the minutes of the Inland Wetlands Regular meeting of June 9, 2011. Commissioner Wilson seconded the motion.

A voice vote was taken; motion passed unanimously.

V. ADJOURNMENT

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

A voice vote was taken; motion passed unanimously.

III-D. COORDINATOR REPORT

None

VI. MINUTES

1. June 9, 2011 Regular Meeting

Commissioner Beattie motioned to approve the minutes of the Inland Wetlands Regular meeting of June 9, 2011. Commissioner Wilson seconded the motion.

A voice vote was taken; motion passed unanimously.

V. ADJOURNMENT

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

A voice vote was taken; motion passed unanimously.

Chairman Zahornasky adjourned the meeting at 7:41 P.M.

Respectfully submitted,

Sophia V. Belade

Sophia V. Belade

Clerk – Inland Wetlands

1 TAPE ON FILE IN TOWN CLERK'S OFFICE