

## **MINUTES**

### **GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY**

**May 23, 2016**

Members present: Chairman Brian Harris, Vice Chairman Elliot Benton, Secretary Stephan Skoufalos, Joe Rogers, Jim Carr, Bill Galvin, Norma Kerlin

Alternates present: Jay Schondorf and Steven Fong

Staff present: Patricia Sesto, Director; Robert Clausi, Senior Wetlands Analyst; Doreen Carroll-Andrews, Wetlands Compliance Officer

Others present: Ann Pisetzner, Jonathan Hughes, Eric Brower, Steven Walko, Darin Overton, Barry Hammons, Jim Michel, Rich Feminella, Thomas Knowlton, Ted O'Hanlan, Larry Liebman, Lauren Lockwood, Bill Root, Ted Hart, Christine O'Hare, Jayne Isford, Mary Young, Mike Doherty, Michael Klemens, Jim O'Brien, Matt and Madeline Popp, Marlon Dale, Peter Berg, Bill Kenny, Linda Bruno, Tom Heagney, Lynn Lavery, Charles Otton, Carver Glezen, Hilary Gunn, Peter Quigley, Joe Risoli, Neil Weinberg, Tom and Moya Duffy, Nick Macri, Ted Fowler, Craig Huber, Steven Studer, Michael Mangalales, Chris von Keyserling, Berrin Snyder, Kevin Wyler, Rob Frangione, Brian McMahon, Peter Finkbeiner, Tony D'Andrea, Jackie Kaufman, Ken Begasse

#### **1. Call to Order**

Chairman Brian Harris called the meeting to order at 7:09 p.m. in the Town Hall Meeting Room on the first floor of Greenwich Town Hall.

#### **2. Seating of Alternates**

With all regular members in attendance, no alternates were seated.

#### **3. Review and approval of draft minutes**

Jim Carr made a motion to approve the draft minutes of April 25, April 27, and May 9, 2016 with no corrections, second by Joe Rogers. The motion carried 7-0-0.

#### **4. Director's Report**

Patricia Sesto reviewed the elements of her staff report. The applications coordinator position has been offered to an individual, though no confirmation of acceptance is in place. Green Sheet Summaries will include total number of people seeking help at the counter to give members and fuller depiction of the volume served. Members will be asked to revisit the bond procedure to modify the amount required. Ms. Sesto will also be working with town counsel to review limitations on the types of bonds accepted. She remains unsupportive of surety bonds. Andrew Lim, high school intern has begun working with the department and is doing quite well.

## 5. Compliance Report

Doreen Carroll-Andrews referred to the Compliance Summary sheet that was distributed in the meeting packets, which included a summary of green sheet submissions for the month (of 80 received, 5 required a permit, 28 had wetlands on site but did not require a permit), the incoming application summary (of 15 applications received, 13 are New, 2 are Agent Approvals), a breakdown of bond releases (23 requested, 7 initiated by Staff, 13 released), and the total number of inspections for the month (78) and deadlines set by the Agency that are upcoming or have passed. Also discussed were the results of the CT DEEP Riffle Bioassessment by Volunteers Program Report for 2015 that confirmed the two brook sites sampled by staff and volunteers contained at least four 'most wanted invertebrates, therefore characterizing the streams as having excellent water quality conditions. The full report can be found on the Inland Wetland and Watercourses Agency Town website.

### Other Business

No other business was offered.

## I. Pending Town of Greenwich Projects

1. #2016-039 – 14 Ballwood Road – Town of Greenwich, Department of Public Works – Tax #06-4690 – for pump station replacement and drainage improvements in and adjacent to wetlands.

Bob Clausi reviewed the content of his supplemental staff report. Some neighboring property owners remain concerned regarding the effect of removing the berm and clearing the historic swale. The drainage for the pump station has been revised and is acceptable to DPW. Mr. Clausi stated the capacity of the receiving pipe is larger than what will pass through the swale. Consequently, he is not concerned with the modification.

Jim Michel, Chief Engineer of the Engineering Department, of the Town of Greenwich Public Works Department appeared before the Agency, accompanied by Rich Feminella, Waste Water Division Manager. Mr. Michel discussed the project stating the berm is effectively an accumulation of sediment that impedes storm flows. Eventually the water makes its way around the berm. The channel can be seen on historic maps and it is this condition DPW would like to restore. There are several properties upstream from this area that are enduring the impacts of the restricted flow. They are withdrawing the swale portion of the project.

Charles Otton, Ledge Road, appeared before the Agency to state his concerns about the flows. The receiving pipe is not big enough to convey storm flows. The town should expand the scope of the project and deal with pinch points downstream and consider piping the old channel rather than restoring it.

Mr. Michel responded the pipe Mr. Otton refers to is private and the town does not work on private property or structures. If the channel were piped as suggested, the value of the wetland to store floodwaters would be eliminated to the detriment of downstream properties.

Barry Hammons, P.E. and L.S. appeared before the Agency on behalf of neighbor Mary Young. He began by stating no issues are associated with the rebuilding of the pump station. He concerns solely rest with the channel and berm work. The work will result in a slight increase in

peak flows overall and significant increases for the 1 and 2 year storm frequency. DPW has overstated the capacity of the existing 24 in. pipe, which adds to the concern. The option of no development, e.g. leave the berm in place must be considered.

Mary Young, 11 Ledge Road, identified herself as having a Master's degree in community planning and 20 years experience in regulatory land use. She urged the applicant and Agency to bifurcate the proposal, leaving the drainage work for a new application once additional studies have been conducted.

Neil Weinberg, 10 Ledge Road, appeared before the Agency and stated his agreement with the comments, noting the drainage work will add to his stormwater burden.

Brian Harris asked Mr. Michel if the piped had been examined via a camera, to which Mr. Michel stated it had not. The pipe is privately owned and if the owners of the pipe believe there is a problem with it, they would be responsible for the investigation.

Mr. Michel added the proposed channel work is being responsive to complaints of flooding upstream. In his professional opinion there will be no impact given there is no new volume being generated. The situation exists due to a lack of maintenance.

Discussion ensued regarding various approaches to alleviate neighbor concerns. Mr. Michel concluded the discussion by stating DPW's priority is the pump house and he wishes to withdraw the portion of the application dealing with the channel work.

There were no comments from the public.

A motion to approve this application with general and special conditions as proposed by staff and the additional condition the work in the channel and berm is not part of the approval was made by Brian Harris, seconded by Stephan Skoufalos and carried 7-0-0.

## **II. PUBLIC HEARINGS**

### **1. #2016-030 – 25 Mead Avenue – Town of Greenwich – Tax #04-4602/s (Continued)**

For reconstruction of the New Lebanon Elementary School, parking, and drainage 45 feet from wetlands.

Chairman Brian Harris reintroduced the application from the April 27<sup>th</sup> public meeting and recused himself, stating he is a member of the New Lebanon School Building Committee. Elliot Benton is Chair.

Patricia Sesto read the list of documents into the record, gave an overview of the project revisions, and reviewed her supplemental staff report.

Steven Walko, Chair of the New Lebanon School Building Committee appeared before the Agency. The process for developing and permitting the proposal is long and the town is coming up against a deadline for a grant.

Darin Overton, P.E., Milone & MacBroom, reviewed the revisions. Among other site design changes, the wetland enhancement proposal has been fully incorporated into the stormwater

management plan and two biofiltration basins have been added. Richard Street stormwater will now go to one of the biofiltration basins and the last catch basin is hooded. The new parking lot islands are configured as swales and a biofilter will further improve water quality. As proposed, the plan now meets the Drainage Manual criteria for redeveloped land to the west and all 14 criteria for new development to the east.

The pollution renovation analysis was expanded to include hydrocarbons and bacteria. The analysis shows an 18-24% reduction across all parameters as compared to existing conditions.

Mr. Overton reviewed the nine submitted alternatives, stating each design effectively places the school in the same location. As they pertain to wetlands, each alternative would have had more or less the same stormwater management plan, thus the same level of impact.

Matt Popp, 54 Mead Avenue, appeared before the Agency. He identified himself as a Licensed Landscape Architect, Professional Wetland Scientist, and an individual who is very well acquainted with the site.

Mr. Popp identified a portion of the proposed access drive and parking area, marked in red on his map, highlighting the lack of stormwater treatment for this section. This impervious area will be a high source of pollutants and should be treated. Mr. Popp cited the town's likely lack of maintenance as reason to eliminate the two biofiltration basins. The southern basin flows to the renovated wetland and that stormwater can be treated there. The ball field basin is situated in a corner of the field that is well-used for informal play. Subsurface infiltration would be a better solution. The parking lot should have more trees added and there is no invasive plant management plan.

Mr. Overton rebutted. The access drive does have a hydrodynamic separator to treat a portion of the drive. Given other constraints, the unit is placed as far down the drive as prudent. The biobasins are included on the plan in compliance with the town's Drainage Manual, but putting the drainage to the ball field in subsurface units is a possibility. The design team was unaware of its informal uses.

Steve Walko confirmed the corner of the ball field is used. However, preserving it is not as important as putting forth a compliant proposal. If underground treatment is possible, then yes, it would be preferable.

Members of the public were invited to speak. No comments were offered. Elliot Benton closed the hearing.

Stephan Skoufalos stated his conclusion the objections raised were not related to wetland protection and made a motion to approve this application with general and special conditions as proposed by staff, seconded by Joe Rogers and carried 6-0-0.

- #2016-002 – 345 West Putnam Avenue, 37 Oak Street, 26 Hemlock Drive and 0 West Putnam Avenue – Post Road Iron Works, Inc. and Carriero Family Limited Partnership - Tax #07-1148/s, 07-1425, 07-2033/s, 07-1135/s, 07-1136/s, 07-2190 (Continued)**

For construction of a 355-unit apartment building 105 feet from wetlands and driveway 10 feet from wetlands.

Mr. Harris was reseated.

Chairman Brian Harris reintroduced the application, noting the hearing was continued from May 9, 2016.

Bob Clausi read the list of documents into the record and reviewed the more substantive elements of his supplemental staff report and highlighted changes in the site plan.

Ted O’Hanlan, Esq., attorney of Robinson & Cole for the intervenors spoke before the Agency. He asked members of the audience to show their hands if opposed to the proposal. A clear majority of people raised their hands. Stephan Skoufalos questioned the purpose of the exercise and urged Mr. O’Hanlan to move on to substantive issues.

Mr. O’Hanlan expressed disagreement with the applicant’s assertion the Agency does not have jurisdiction over the existing stormwater discharge pipe. This General Stormwater Permit for this pipe indicates it discharges to Horseneck Brook. There is nothing in the statutes to state this permit supplants the jurisdiction of the Agency.

Mr. O’Hanlan then referenced memo of May 23, 2016, written by Patricia Sesto, Director. He disagreed with her assertion the off-site wetlands should be handled with a separate enforcement action. This contamination is connected with the subject parcel and should be incorporated into the application.

He contended the application is still incomplete and the Agency can and should access the adjoining properties with a subpoena to determine the extent of contamination.

The applicant has not respected the permitting process by failing to submit the full range of necessary information upfront. The timing of submissions has hindered their review. Based on what has been submitted, the applicant cannot pass the criteria for decisions set forth in section 10.2 of the regulations.

Michael Klemens, Ph.D. presented his report, describing the two viewpoints of his evaluation; the landscape perspective and the subject parcel. He was involved in investigating the landscape in 2012 in connection with the previous permit application. This work was done in partnership with the then consultants for the applicants, Land Tech, allowing both side access to relevant application and private parcels. Dr. Klemens noted this application is a subset of the parcels included in the 2012 development proposal, which is troubling. The segmented approach to development is a poor approach to preservation and protection of valuable natural resources. Similarly, the current ecological evaluation for this application did not make any attempt to access pertinent neighboring properties despite the knowledge the neighbors accommodated such requests in 2012.

Dr. Klemens spoke to the report submitted by Michael Klein, wetland scientist for the applicant. Dr. Klemens called attention to the appendices of Mr. Klein’s report which include information Dr. Klemens is cited to have co-authored. These reports were compiled solely by Land Tech after the denial of the 2012 application. Dr. Klemens did not co-author the reports with Land Tech due to a lack of agreement on interpretations of data.

Mr. Klein’s report drew conclusions based on Mr. Klein’s interpretation of information submitted by Dr. Klemens for the previous application. Dr. Klemens stated his sharp

disagreement with those conclusions, noting they fail to account for external forces and do not incorporate more current information.

Wetland 3 is considered the central vernal pool and is ecologically connected to wetland 4. The wetlands are in a recovery stage. In 2012 it was discovered a public water supply pipe ruptured and draining to the vernal pool for roughly 2 years. This water caused a hydrologic imbalance favoring green frogs over wood frogs. With the pre-existing hydrologic budget restored, wood frogs are observed in greater density. The vegetation, including sweet gum, is also returning in the absence of chloride treated water.

Dr. Klemens recounted the points of disagreement with Land Tech in 2012. In 2012, the professionals differed in their assessment of egg masses and a gravid wood frog. The difference was pivotal in assigning a tier II or III characterization. Since 2012, the pool is in recovery and would likely be a tier II already or on its way. This change in circumstance supports Dr. Klemens' position that a lower quality wetland should not be written off as too far gone; recovery is possible.

The role of the wood frog in the health of the vernal pool was addressed. Wood frogs have an essential role in the nutrient cycle. In the absence of the wood frogs, the pool will become eutrophic. This connection was upheld in the River Sound Development vs. Old Saybrook.

The wood frogs require forested upland habitat to compliment the portion of their life cycle in vernal pools. To enable the vernal pool to continue its recovery, the primary goal must be to avoid loss of any more woodlands within the Critical Upland Habitat, or 750 from the vernal pools. The second priority is to restore more woodlands.

Given these impacts feasible and prudent alternatives must be looked at. An alternative is to reduce the size of the building and focus the development to the previously disturbed areas to the east and preserve the sensitive forest area to the west. The current proposal will affect the wood frog recovery. The 750 foot critical upland habitat adjacent to vernal pools needs to have 50% forest cover. With some restoration, this number is attainable.

Stephan Skoufalos spoke to Dr. Klemens, stating he previously asked Mr. Klein if the scale of the project would make a difference to the vernal pools. Mr. Klein had responded no, the pools were too degraded. Mr. Skoufalos asked Dr. Klemens if he agreed. Dr. Klemens disagreed, stating the pools are capable of improvement. 95% of the breeding population is found within the 750 foot Critical Upland Habitat. If this 750 feet is protected, the pools will continue to improve.

Elliot Benton asked Dr. Klemens if there is no development on the subject parcel, the pool will recover? Dr. Klemens responded the development would slow the recovery or perhaps prevent recovery. The Critical Upland Habitat is already compromised and he is unsure what the actual tipping point would be. An alternate development proposal reduces the risk of recovery failure by saving a piece of forest. The footprint of the building is the problem, not shading. It wouldn't matter to the ecosystem how tall the building was.

Stephan Skoufalos quoted from the report prepared by Mr. Klein, stating wood frogs need varied habitat and are a common species. Dr. Klemens responded wetlands 3, 4, and Ramsey Preserve have wood frogs, which is not typical for this area of town. Further, being common is not an

excuse to disregard a species' value. The proposed development will eliminate wood frog habitat.

Jim Carr inquired about migration corridors between wetlands. Dr. Klemens responded affirmatively, stating the woodlands provide the ecological connections between the vernal pools.

Joe Rogers asked if the development would create a hydric imbalance in the wetlands, to which Dr. Klemens responded, no.

Elliot Benton questioned the impacts of the contaminants, including zinc and lead. Dr. Klemens stated amphibians are sensitive to such pollutants and reptiles, such as snapping turtles are prone to bioaccumulation. A risk assessment would need to be conducted on the wetland east of the Hemlock Drive accessway, the "Cotswold" wetland before any cleanup is pursued. Presently the level of toxicity and biodiversity are unknown.

Steve Studer of Berchem, Moses & Devlin, P.C., requested a chance to ask questions of Dr. Klemens. Discussion ensued regarding the ability and procedure to do so. Questions by the applicant would be received through the Agency at the end of the intervenors' consultants' presentations.

Joe Risoli of Risoli Planning and Engineering appeared before the Agency on behalf of the applicant, stating he has 30 years of experience in engineering and development. He is in agreement with the calculations submitted by the applicant, but wants the Agency to understand the magnitude of these numbers. The project will net 40,000 cubic yards of excess material to be taken off-site. This will amount to more than 4,000 dump truck trips.

Mr. Risoli urged the Agency to evaluate the green roof based on its lifetime. There will be problems with maintenance as the requirements are substantial. The roof will have overflows if not properly maintained and there is no motivation to stop the overflows as there is no damaging consequence. Further, there is no motivation sustain ongoing maintenance. This will eventually impact the wetlands when the roof and porous pavement fail and the unchecked stormwater then flows to the catch basins which discharge to the wetland.

Blasting also threatens the groundwater as fissures can be created, altering the flow of groundwater. The footing of the building is lower than the wetland 150 feet away. If a fissure is created, will the wetland be drained?

Mr. Risoli explained his mathematical disagreement on the sewer calculations, stating overflows for the receiving sewers would go into Horseneck Brook. He reviewed four methods for calculating flows and the average of the four produced a projected flow of 79,000 gal/day and a peak flow of 315,000 gal. The daily average is much higher than the 46,000 gal/day estimated by the applicant.

Joe Rogers asked if the hydric balance for wetland 3 would be maintained under the proposed conditions for all rainfall events, particularly the small ones. Mr. Risoli confirmed this, but cautioned failures of the stormwater system components should be expected overtime.

Michael Manolakis, LEP, of Leggette, Brashears, and Graham addressed the Agency on behalf of the intervenors, stating he reviewed the Triton reports. He stated the determination of whether or not Post Road Iron Works qualifies as an establishment speaks to the standard of care. In the 2016 Phase I report, the report failed to acknowledge xylene was disposed of in the same barrel

as the waste oil. This contaminates the oil, rendering the whole volume hazardous. The volume of hazardous waste generated is then in excess of 100 kg/day, triggering the “Establishment” qualification.

Mr. Manolakis noted the contaminated catch basins discharge to the “Cotswold” wetland, which Triton did not evaluate for contamination. In the 2012 Triton Phase I, photos are included showing paint staining around the catch basins and around the site. Arsenic, lead, and chromium are associated with the paint. Xylene was also found in the catch basins. In 2016, photos indicate Post Road Iron Works is still handling their hazardous waste poorly. The standard of care is still lacking.

The characterization of the extent of contamination is incomplete. As depicted on a map, there is a flow divide on-site, with no wells placed down gradient to the west, ahead of the wetland. No sampling was taken to the north and areas identified as contaminated were not fully defined by establishing their limit.

Testing did establish the pond on the west side of the accessway contains the same contaminants as the catch basins. This testing did not include the deepest part of the pond, which is where the higher levels of contaminants would be expected.

Stephan Skoufalos asked if there is evidence of ongoing pollution. Mr. Manolakis referenced the applicant’s document which shows lead was elevated in 2014. Further, no volatiles were tested for as required in the DEEP stormwater permit.

Mr. Manolakis recounted the various contaminants identified by Triton and their remediation plan. The poor characterization of the extent of contamination compromises one’s ability to propose an adequate erosion and sedimentation control plan. The development depends on discharging stormwater to the adjoining wetland. If this wetland is eventually remediated, how will the development’s stormwater be handled?

DEEP requirements could not be met given the lack of information. The report lacks pollutant mobility criteria and since the investigation is incomplete, so would be the remediation plan. The evidence of recent paint spills calls into question if this should have been reported to DEEP as a hazardous spill.

Stephan Skoufalos asked if the site is characterized as an Establishment, would DEEP order testing in the offsite wetland? Mr. Manolakis stated his doubt this would happen. DEEP would urge Post Road Iron Works to make the effort to gain access themselves.

Agency members questioned the likelihood of the drainage pipe being impacted with residual contamination. Mr. Manolakis identified particulates as being a greater source of ongoing pollution as opposed to soluble or volatile compounds. The pipe has likely been flushed clear of pollutants.

Bill Galvin questioned the significance of the elevated level of lead in 2014 and if scoping the drain pipe was advisable. Mr. Manolakis indicated the elevated lead could have been the result of newly dislodged paint. He did not expect the scoping of the pipe to provide any meaningful information. Contamination of the soils surrounding the pipe is unlikely, even if the pipe has separated or otherwise failed. The flow of water prevents lateral movement of it, keeping the contaminants in the pipe. The bigger threat is contaminated groundwater that surfaces in the wetland. Triton’s wells were not placed properly to detect this situation.

Steve Studer of Berchem, Moses & Devlin, P.C., presented questions to the Agency for Dr. Klemens. He asked how much of the 39% of forest within the Critical Upland Habitat zone was protected; did Dr. Klemens know the ownership of the flag lot south of wetland 4 and east of

wetland 3 was not owned by the applicant; in 2015 wetland 3 had no observable wood frog egg masses, how many tadpoles were observed, and; what portion of the forested Critical Upland Habitat did the on-site forest constitute?

Dr. Klemens replied he was unaware of how much of the 39% of forest was protected. He is not dissuaded by this as the responsibility is to evaluate what is here now. He was not aware of the change in ownership of the referenced lot. The on-site forest represents an additional 3%, not included in the 39%. The number of tadpoles observed is irrelevant. Once the tadpoles were identified, there was no comprehensive count to quantify the population. That was not the purpose of the investigation.

Steve Studer posed questions for Mr. Risoli. He asked if Mr. Risoli could confirm the handwritten exhibit numbers were in his handwriting and if Mr. Risoli was aware the septage flow calculations he used were intended for septic systems, not sewer systems. Mr. Risoli confirmed the handwriting was not his.

Thomas Knowlton, P.E., Milone & MacBroom appeared before the Agency and discussed the May 4, 2016 letter written by Richard Feminella, Sewer Division, Department of Public Works. The letter references five sewer overflows on the Horseneck Sewer Line. Two of the five are outside of the sewershed, another two occur above the subject property, and the last one was caused by grease and rags, resulting in approximately 100 gallons of sewage overflow.

Brian Harris questioned the implications of the two overflows upgradient of the project. If overflows are occurring above the project, doesn't that show there is a capacity issue from that point down? Mr. Knowlton responded stating the proposed development wouldn't make anything worse. Anything over capacity now would still be over capacity after development.

To address the additional flow contributed by the proposal, the applicant is proposing to install cured-in-place pipe to increase capacity in three segments. The lower friction will render these sections below capacity. Also, a standard for volume was used based on a Rutgers study to better account for flows from a development like this one.

Mr. Knowlton reviewed the four methods of estimating volume by Mr. Risoli and his position as to why they were incorrectly applied. One method was for subsurface sewage disposal, the next was not TR16, rather it was a method for the Greater New Haven area, the third used a 50 year old study, and the last used data from the 2000 census with outdated average occupancy rates.

Bill Galvin restated DPW's position that they are highly concerned. Mr. Knowlton agreed with that summary, however the applicant has proposed a solution and is willing to implement it at their own expense.

After a brief discussion, it was agreed June 6 would be the next deadline for the submission of new material in anticipation of the June 13, 2016 public hearing.

Chairman Harris invited public comment.

Hilary Gunn spoke on behalf of Don Hamilton, District 7 vice chair, stating the Horseneck Sewer capacity is an issue. The system is very old and runs parallel to the brook.

Peter Quigley stated his support for the applicant paying for the sewer upgrade, but advised stormwater is another issue. Greenwich is under a consent decree from 2011 and there is a need not to bring on additional fines. The risk to the ecology is valid. Erosion will ultimately impact the harbor.

Chris von Keyserling reaffirmed the Agency's priority is to protect wetlands and watercourses and cautioned against issuing a permit with conditions to protect these resources. If the application cannot stand on its own without such conditions, it cannot be approved. The town cannot depend on the DEEP to protect it; this burden lies with the IWWA.

Barren Snyder urged the Agency to take meaningful actions and do not let the applicant circumvent wetland and watercourse protection.

Mr. Knowlton added to his description of the value of the cured-in-place pipe, stating it is more than just smoothness which help increase capacity. Rocks and roots will be cleared and leaks will be sealed.

With no further comments from the public, the hearing was continued to June 13, 2016.

### ***III. Consent Approvals***

1. #2016-052 – 48 Birch Lane – David and Heather Tarifi – Tax #11-1791 – legitimizing existing pool.
2. #2016-054 – 44 Harbor Drive – Neil and Kimberly Augustine – Tax #02-1551 – construction of a new single-family residence, pool, patio, sport court and drainage.
3. #2016-055 – 38 Cary Road – Hilary Martin Lea – Tax #12-1489/s – construction of dock.
4. 2016-062 – 14 Paddock Drive – Lawrence Auriana – Tax #11-2703 – invasive management and installation of wetland plantings.

Chairman Harris read the list of applications recommended for consent approval. No questions were asked.

There were no comments from the public.

A motion to approve the applications, with general and special conditions as proposed by staff was made by Joe Rogers, second by Elliot Benton. The motion carried 7-0-0.

### ***IV. Pending Applications***

1. #2016-012 – 25 Fairview Terrace – 25 Fairview Terrace, LLC – Tax #09-3745/s – construction of a new single-family residence, driveway, pool, and drainage system 20 feet from a wetland.

Robert Clausi reviewed the contents of his supplemental staff report. Several revisions have been made including regrading, additional retaining wall, soil testing, and adding a sediment basin. The town, applicant, and engineer representing the neighbor have been working to address various issues. DPW has accepted the plans. Mr. Clausi is recommending the planting plan be amended to include canopy trees and stated the issuance of a permit is also recommended with the special conditions provided.

Tom Heagney of Heagney, Lennon & Slane, LLC appeared before the Agency on behalf of the applicant. He expressed no issues with the staff report and agreed to add five canopy trees to the planting plan.

Brian McMahon of Redniss & Mead addressed the Agency on behalf of Ann Pisetzner, neighbor at 38 Hunt Terrace. Mr. McMahon cited the potential impacts to his client's property from poorly handled erosion and sedimentation controls. The site has already proven vulnerable to erosion. Some comments previously submitted by Mr. McMahon were addressed by the applicant. The inclusion of the sediment basin is positive, however there is concern regarding the five foot cut within the sewer easement to create the basin. There is the probability groundwater will be intercepted with this cut and reduce the storage capacity of the basin.

Details of construction are still lacking, i.e. materials storage location, worker parking, staging areas. The Cultec units on the north side of the house are cut off from vehicle access, which may affect maintenance. Trees on his client's property are close to the construction area and there is concern the trees may be fatally damaged. The site plan still seems unrealistic and impractical with stormwater management strategies that rely on a heated driveway and access hatches in the deck.

Jackie Kaufman appeared before the Agency on behalf of Ann Pisetzner stating there is insufficient detail which renders the application incomplete. Her client would like to retain the ability to evaluate any changes to the site plan and would like any change to come back to the Agency for review as opposed to relying on staff and a counter review. Ms. Kaufman requested a bond be required to safeguard the landscaping on Ms. Pisetzner's property.

Ann Pisetzner spoke to the Agency and presented pictures of her property. The trees of concern are immediately adjacent to the property line with roots extending on to the subject parcel. The past violation on-site caused substantial damage to 38 Hunt Terrace. The changes to the plan were less than expected, taking the original plan of 95% site disturbance down to 90%. There is concern over the continued lack of detail and potential for damage to her property.

Mr. Heagney responded the new phasing plan will protect Ms. Pisetzner's property. The parking area has been leveled, the wall at the end of the driveway will block storm flows from leaving the property and crossing to her property. Larry Liebman, of S.E. Minor added perimeter drainage and driveway drains now part of the plan will further assist in keeping stormwater off the neighbor's property.

Mr. Heagney opposed the request to have his client come back to the Agency for changes which still meet the intent of the permit. Discussion ensued regarding various means to assist Ms. Pisetzner in meeting her goals. It was decided an informal note will be added to the file to ensure Agency staff appreciates the sensitivity regarding any changes.

A motion to approve the application with general and special conditions as proposed by staff was made by Elliot Benton, seconded by Bill Galvin and carried 7-0-0.

2. #2016-016 – 18 Grahampton Lane – Greenhill Associates, LLC – Tax #11-1535 – demolition and construction of a single-family residence, driveway, pool, septic and drainage systems 40 feet from a wetland.

Bob Clausi reviewed the contents of his supplemental staff report. The drainage plan was not previously satisfactory to DPW. The additional detail and data has been added to the application and DPW has signed off. Mr. Clausi is recommending an approval with cited conditions.

Rob Frangione of Frangione Engineering, LLC appeared before the Agency on behalf of the applicant and offered no objection to staff comments.

There were no comments from the public.

A motion to approve this application with general and special conditions as proposed by staff was made by Elliot Benton, seconded by Bill Galvin and carried 7-0-0.

3. #2016-034 – 21 Leeward Lane – Robert and Stephanie Ehrhart – Tax #05-2530 – for demolition and construction of a single-family residence, drainage system, and utilities in and adjacent to wetlands.

Bob Clausi reviewed the contents of his supplemental staff report. The drainage has been modified to take advantage of the potential for infiltration to help ameliorate the impacts from increases in stormwater volumes discharged to watercourses. Alternatives were not presented which would have reduced the level of imperviousness. A biological evaluation was submitted and concludes the development will not negatively impact the receiving stream. Lastly, the open yard drain has been exchanged for a seepage drain.

Tony D’Andrea of Rocco V. D’Andrea, Inc. appeared before the Agency on behalf of the applicant. He stated new development always has an increase in stormwater volume, but this does not mean there is a catastrophic impact.

The change in the storm drainage plan utilizes infiltration into the buried topsoil layer. Stone has also been added to the design to increase lateral movement of the water. Mr. D’Andrea reminded the Agency of the septic system that has been on the site and functioning fine. Infiltration has to occur for this. Whatever stormwater leaves the site will enter a stable, stony stream with no impact.

There were no comments from the public.

A motion to approve the application with general and special conditions as proposed by staff was made by Elliot Benton seconded by Jim Carr and carried 7-0-0.

## **V. New Applications For Review**

1. #2016-043 – 82 Buckfield Lane – Michael Grunberg – Tax #10-1741 – construction of a residential addition and driveway expansion.

Patricia Sesto provided an overview of the site and proposal. The house and associated development is surrounded by wetlands and some of those wetland have been impacted. It is reasonable to conclude the balance of development and wetland preservation has been met, and then some. The proposed project represents a further reduction of vegetated buffer. The wetlands have been impacted directly, with a good portion converted to lawn. This provides an opportunity to improve the wetland in exchange for developing more buffer.

The application material dismisses alternatives based on aesthetic concerns, which are not compelling. Ms. Sesto questioned the 24' turning radius for the driveway, stating her understanding 12' was the standard.

Rob Frangione of Frangione Engineering, LLC appeared before the Agency on behalf of the applicant. He responded by correcting dimensions Ms. Sesto referenced and stated the 24' radius for the back around is based on AASHTO standards. The carport is not the choice of the owner. A garage was preferable, however that would exceed the FAR limit. Other design considerations include the mechanical equipment and access to the house.

Bill Kenny of William Kenny Associates presented to the Agency on behalf of the applicant. In response to staff comments, the number of plants in the planting plan has been increase by a factor of two. The buffer along the stream in the front of the house is now included.

Ms. Sesto reiterated the impacted character of the wetland and the priority for mitigation has to be to restore the wetland before the buffer.

Mr. Frangione requested an extension of the timeframe to review the application and the extension was granted.

There were no comments from the public.

A motion to delay this application was made by Elliot Benton, seconded by Brain Harris and carried 7-0-0.

2. #2016-044 – 53 Dingtletown Road – Jeremy Kaye, Trustee – Tax #11-1848 – grading and landscaping adjacent to a wetland.

Bob Clausi provided an overview of the site and proposal. The applicant is seeking permission to create stepped-lawned terraces adjacent to a watercourse. As part of the project, the rip rap lining a portion of slope would be removed along with invasive plants. A new planting plan will be implemented. The watercourse has a floodway associated with it and all of the work will be restricted to an elevation two feet above the height of the floodway. Coir logs and a natural fiber erosion blanket will be used to stabilize the slope. Mr. Clausi recommended approval of the project with the draft conditions.

Tony D'Andrea of Rocco V. D'Andrea, Inc. appeared before the Agency of behalf of the applicant and offered not objections to Mr. Clausi's report and recommendations.

Norma Kerlin, Jay Schondorf, Jim Carr, Bill Galvin, Stephan Skoufalos, and Joe Rogers indicated they visited the site.

There were no comments from the public.

A motion to approve the application with general and special conditions as proposed by staff was made by Stephan Skoufalos, seconded by Bill Galvin and carried 7-0-0.

3. #2016-056 – 28 Heusted Drive – Victor Construction, LLC – Tax #06-1416/s – razing existing dwelling and construction of a new single-family residence with associated site improvements.

Patricia Sesto provided an overview of the site and proposal. The house sustained damage from Storm Sandy is proposed to be torn down. The new house will be in essentially the same location, less than ten feet from a tidal pond. The pond is under the jurisdiction of the Agency because there is a fresh water component. The narrow fringe of wetlands around the pond are tidal and not under the jurisdiction of the Agency.

Sesto commented alternatives have not been provided and recommends the applicant consider placing the driveway on the north side of the lot to provide a greater separating distance to the pond.

Tony D’Andrea of Rocco V. D’Andrea, Inc. appeared before the Agency of behalf of the applicant. Mr. D’Andrea explained the alternative to remodel the house is not feasible due to extensive storm damage. If the current house were to be lifted, considerable site disturbance would be necessary. The driveway was moved to the south side of the lot to accommodate logistical elements of the elevated house. Plantings will be added under the deck to create a more robust buffer planting plan. Mr. D’Andrea confirmed the tide gate was working. He stated he has no issues with the staff recommended conditions of approval.

Norma Kerlin, Jim Carr, Joe Rogers, Bill Galvin, Jay Schondorf, and Stephan Skoufalos indicated they visited the site.

There were no comments from the public.

A motion to approve the application with general and special conditions as proposed by staff was made by Bill Galvin, seconded by Joe Rogers and carried 7-0-0.

4. #2016-058 – 95 Glenville Road – Alexandra and Kevin Wyler – Tax #10-1314/s – driveway and patio renovation, channel/swale repair.

Bob Clausi provided an overview of the site and proposal. As described in the application material, a watercourse flowing across the backyard is suffering from erosion issues. Mr. Clausi agreed with this assessment; however he has questions regarding the method to correct the problems. The proposed pipe appears to be in a different location than the failed farmer’s drain. Information is needed regarding the design standards used and what if any, trees will be cut. The application should include planting plans for the area along the stream, the area where invasive species will be removed, and the portion of the wetland currently lawned.

Joseph Risoli of Joseph F. Risoli, P.E. LLC appeared before the Agency of behalf of the applicant. He stated the pipe location is depicted in accordance with what is shown on old maps of the property. Ultimately, field conditions will dictate the final location. With respect to design, armoring is proposed on the curves and the straight sections will be left alone. Mr. Risoli stated no trees are expected to be cut.

Kevin Wyler, property owner appeared before the Agency and expressed his desire to see this project approved and implemented.

Peter Finkbeiner of Sound View Engineers and Land Surveyors appeared before the Agency on behalf of the applicant. The concern of his client is that the new pipe will not align with the pipe on his property. After hearing Mr. Risoli's testimony that the intent is to connect, Mr. Finkbeiner's concerns were resolved.

Norma Kerlin, Jim Carr, Joe Rogers, Bill Galvin, and Jay Schondorf indicated they visited the site.

There were no comments from the public.

A motion to approve the application with conditions proposed by staff was made by Jim Carr. There was no second.

A motion to delay the application was made by Brian Harris, seconded by Joe Rogers and carried 7-0-0.

5. #2016-059 – 11 Pine Ridge Road – Deborah Bandanza and Alexander Crawford – Tax #08-3438 – drainage reconstruction and grading.

Bob Clausi provided an overview of the site and proposal. The site has existing drainage features in and adjacent to wetlands. The applicant is seeking to relocate some and replace others. The catch basins in the wetlands will be sealed to prevent groundwater from seeping in. The catch basin in the road should also need to be sealed due to its proximity to the leaching fields. The pipe connecting to this basin will likewise need to be tight pipe. Catch basins in lawned areas were recognized as a conveyer of pollution for the receiving wetland or watercourse and alternatives to eliminate them should be considered.

Joe Risoli of Joseph F. Risoli, P.E. LLC appeared before the Agency on behalf of the applicant. He stated no new basins are being proposed, the applicant is seeking to replace those that are failing. He questioned the fairness of taking away what has been there. His client is willing to restrict fertilizer and pesticide application within 20 feet of the basins and add plantings around the basins, too. Mr. Risoli indicated the basin in the road shoulder was not critical and it will be removed from the plan to avoid issues with the leaching fields.

Ms. Sesto asked Mr. Risoli where the catch basins eventually drain to. He responded to a wetland or watercourse. Ms. Sesto agreed, stating basins like these provide a means for pollutants from lawn care products, dog poop, and geese poop to be directly discharged to the protected resources. This is why opportunities to eliminate them are pursued.

Discussion ensued regarding the drainage patterns on-site and other possible solutions. Ms. Sesto suggested Agency staff meet with Mr. Risoli on-site to seek an alternate solution.

There were no comments from the public.

A motion to delay was made by Elliot Benton, seconded by Brian Harris and carried 7-0-0.

5. #2016-061 – 17 Meadowcroft Lane – Lokemachris LLC – Tax #11-1031 – construction of a new pool house, patio, grading, drainage, new septic location.

Mr. Clausi stated DPW has requested more information.

A motion to delay the application was made by Elliot Benton, second by Joe Rogers. The motion carried 7-0-0.

6. 2016-064 – 881 Lake Avenue – Cheryl Lacoff – Tax #11-2846 – construction of a residential addition and patio 42’ from the edge of a pond.

Bob Clausi provided an overview of the site and proposal. A permit was issued in 2004 and work underway is in compliance with the terms of the permit. The newly proposed work is acceptable, however elements of the drainage report are inaccurate. Specifically, credit for removing impervious area is included, however the impervious area to be removed is not there. In 1981 a permit was issued which required buffer plantings around the pond. This has been compromised with some lawn. There is supposed to be a wetland in the front yard. This is no longer apparent due to filling. Lastly, there are logs placed on an adjacent parcel that are clearly from the subject parcel.

Eric Brower, Esq. appeared before the Agency on behalf of the applicant. He agreed to look into the issues raised by Mr. Clausi and requested permission for his client to continue work on the house. Permission was given.

There were no comments from the public.

A motion to delay the application was made by Stephan Skoufalos, second by Joe Rogers. The motion carried 7-0-0.

## **VI. Agent Approvals**

The Agency was provided two legal notices for projects approved by Authorized Agents. The projects are as follows.

1. #2016-053 – Tallman Segerson Builders, LLC for construction of a deer fence and automatic entry gate at 55 Buckfield Lane is approved with conditions. Tax #10-2459
2. #2016-057 – Deborah and Peter Shabecoff for construction of patios, installation of a generator, and grading 80 feet from a wetland and Byram River at 153 Riversville Road is approved with conditions. Tax #10-1042

No questions were presented and no public comments were received. No action by the Agency was required.

## **VI. Applications To Be Received**

Bill Galvin made a motion to receive the fifteen applications listed on the agenda and schedule them for discussion or public hearings as appropriate, at the next meeting of the Agency, second by Brian Harris and carried 7-0-0.

**VII. Violations**

1. Cease & Correct Order #2016-08 – 14 Cat Rock Road – Miriam Syed – Tax #08-3406/s

Doreen Carroll-Andrews read the evidentiary documents into the record and reviewed the Violation Summary. The unauthorized activity includes removal of mature trees and deposition of dirt on a slope above wetlands and watercourses. Staff conducted a standard compliance inspection for activity approved under Agent Approval #2015-124 issued for the construction of a residential addition, a deck and retaining walls. Upon inspection, staff observed at least 5 mature trees, four of which are estimated at approximately 18” or greater in diameter, have been removed along the slope about the wetland and watercourse to the rear of the residence. The affected area incorporates approximately 70’ by 20’. Also noted was a substantial amount of fill material deposited behind the stone retaining wall in the location of the level spreader for drainage in relation to the approved addition.

Staff recommended the Agency maintain Cease & Correct Order #2016-08 and that a Certificate of Violation be filed on the Land Records if an application to address the violation is not received by June 22, 2016. She also noted the applicant submitted an application on May 23, 2016.

A motion to uphold the Order with staff recommendations was made by Brian Harris, second by Joe Rogers. The motion carried 7-0-0.

2. Cease & Correct Order #2016-09 – 32 Bedford Road – Christine and Ken Begasse Jr. – Tax #10-1875

During a bond release inspection, Ms. Carroll-Andrews observed unauthorized activities. The unauthorized activities include removal of vegetation and deposition of woodchips in wetlands and upland review areas. Staff recommended the Agency maintain Cease & Correct Order #2016-09 and that a Certificate of Violation be filed on the Land Records if an application to address the violation is not received by June 17, 2016.

Ken Begasse, property owner appeared before the Agency and conveyed his intent to submit an application to correct the violation.

A motion to uphold the Order with staff recommendations, including an application deadline by June 17, 2016 was made by Brian Harris, second by Elliot Benton. The motion carried 7-0-0.

**VIII. Bond Releases**

1. Application #2005-195 – Permit #2006-008 for Stephen Pare deGot – 25 Nearwater Lane. The \$3,000 bond is to be returned to Stephen P. deGot Trust dated 21701.
2. Application #2007-083 – Permit #2007-069 for Bernie Guilfoyle – 443 North Street. The \$9,000 bond is to be returned to DMC Builders, LLC.
3. Application #2010-010 – Permit #2010-033 for 38 Crown Lane, LLC – 38 Crown Lane. The \$8,000 bond is to be returned to Shipman and Goodwin LLP.

4. Application #2011-094 – Permit #2011-083 for John Sargent – 123 Zaccheus Mead Lane. The \$5,000 bond is to be returned to 123 Zaccheus Mead LLC.
5. Application #2011-144 – Permit #2012-006 for Warren Lilien – 7 Carriglea Drive. The \$4,075 of original \$10,000 bond is to be returned to Warren and Lindy Lilien.
6. Application #2012-049 – Order #2012-014 for Kristin Globell – 3 Byfield Lane. The \$1,000 bond is to be returned to Joachim B. Globell.
7. Application #2013-107 – Permit #2013-102 for 3 Gisborne Place, LLC – 3 Gisborne Place. The \$15,000 bond is to be returned to 3 Gisborne Place, LLC.
8. Application #2013-131 – Permit #2013-121 for Gilbert and Maureen Ohls – 361 Stanwich Road. The \$3,000 bond is to be returned to Gilbert and Maureen Ohls.
9. Application #2014-019 – Permit #2014-020 for Richard and Dawn Paplian – 67 Winding Lane. The \$5,000 bond is to be returned to Richard Paplian.
10. Application #2014-033 – Permit #2014-027 for Hollis von Summer – 63 Burning Tree Road. The \$5,000 bond is to be returned to Hollis von Summer.
11. Application #2014-043 – Permit #2014-036 for Jeffrey Frase – 21 Byfield Lane. The \$500 bond is to be returned to Jeffrey S. Frase.
12. Application #2014-088 – Permit #2014-075 for Mark Meyer – 65 Calhoun Drive. The \$5,000 bond is to be returned to Mark Meyer.
13. Application #2015-098 – Permit #2015-086 for Frederick and Claire Gordon – 50 Dandy Drive. The \$500 bond is to be returned to Frederick and Claire Gordon.

A motion to release the bonds was made by Elliot Benton, second by Jim Carr and carried 7-0-0.

***IX. Other Business***

- a. General Procedural Discussion
- b. 2 Huntzinger Road – Gregory Sposito for bond requirement modification.

***X. Adjourn***

With no further business, the meeting adjourned at 1:50 a.m.

Patricia Sesto  
Wetlands Director