

**TOWN OF NEWINGTON  
CONSERVATION COMMISSION**

**May 20, 2014**

**I. CALL TO ORDER**

Chairman Philip Block called the meeting to order at 7:04 p.m. in Conference Room L101 in Newington Town Hall 131 Cedar Street, Newington, Connecticut.

**II. ROLL CALL**

Present:

Chairman Block  
Commissioner Zelek  
Commissioner Igielski  
Commissioner Clark  
Commissioner Casasanta  
Commissioner Krawiec  
Commissioner Paskewich  
Commissioner Sadii

Commissioner Paskewich was seated for Commissioner Ancona and Commissioner Krawiec was seated for the unfilled position.

Commissioner Zelek: I'd like to propose a couple of changes to the agenda. I've been speaking with some of the Commissioners and there is a consensus among the Commissioners to go into executive session later on in this meeting, so I would like to make a motion that we go into executive session and discuss the pending litigation. I think we are all due for an update.

Chairman Block: Okay.

Commissioner Paskewich: I have a question. I'm not aware of this consensus.

Commissioner Zelek: I will say I have spoken with Commissioner Krawiec and Commissioner Clark and Commissioner Krawiec and has also expressed her concerns to the Chairman for some updates.

Chairman Block: What I would like to suggest, because we have some people in the audience is let's run through our agenda and as the last item, add to Old Business to go into executive session at that time.

Commissioner Zelek: Okay, so I made the motion.....

Chairman Block: Is there a second?

The motion was seconded by Commissioner Krawiec and the vote was unanimously in favor of the motion, with seven voting YEA.

Commissioner Zelek: I have another item also to bring to your attention. I see under New Business we have an application. When I looked at my packet I noticed that the receipt date of the application was May 13<sup>th</sup>, I believe today's date is the 20<sup>th</sup>. That's only seven days difference. In referencing our internal procedures, I want to make sure that we are not in

violation of our internal procedures, under Article Seven, Application for Submission, it states an application received by the administrative officer within fourteen days, calendar days of the next regular meeting of the Commission will not appear on the agenda as a matter of presentation for that meeting. However, its receipt will be noted into the record at the meeting and the clock will start at the sixty-five day calendar day period in which the Commission may render a decision or determine a need for a public hearing. So, according to our internal regulations, our internal procedures, this item should not appear on our agenda.

Chairman Block: This is a modification to an existing permit and therefore Chris, how does it respond to our regulations?

Chris Greenlaw: Point of order Mr. Chair, a couple of things, we do have Communications and Reports, if Commissioners want to bring up items at that time, that would be the appropriate time, secondly the point brought up by Commissioner Zelek, that would pertain to typical brand new applications. What we are seeking here is an active application where they are looking for a modification. So in this case, that wouldn't apply to this because it's an application that is current, it's live and because of extenuating circumstances the applicant has come back to seek a modification for that. That being the case, that provision that we have in our internal rules and procedures is set up such that staff has enough time so that we can go through the application, so that we don't get numerous applications, very large applications before that date. This being a live application, something that was approved, seeking a modification, certainly well aware of this, the Commissioners should be well aware of this and what we are going to do is give the applicant their time here tonight to discuss why they are seeking a modification to this permit.

Chairman Block: It could very well have been under Old Business, seeking a modification.

Commissioner Zelek: I don't see any definition of that rule, so I'm really not sure what you are basing that on, but I do however see on the document that was submitted to the Commission, the word "application" and "permit." So I would have the Commissioners reference the documents, to me it appears as though it's an application, based on what the documentation says.

Chairman Block: If you will recall, at the last meeting we had presented and reviewed this application for 15 Clifford Street. Do you recall it?

Commissioner Zelek: No, I was not present at the last meeting.

Chairman Block: Oh, okay. This was reviewed and approved at that time. When we come to that agenda item, I think it will be appropriate.....

Commissioner Igielski: That doesn't sound right, Mr. Chairman by suggesting that that application was approved at last months meeting.....

Commissioner Zelek: Then it should be in our minutes. Did you check our minutes to see....

Chris Greenlaw: Again, point of order, we are jumping ahead, but the question, just answer the question. When you look at the application the application number is a previous application, this is not a new application, so simply one that when the person comes in to time stamp it, just to put something in the file such that depending on how the Commission votes, we have a paper trail in the file. This will show up as a modification to an existing application that was approved and is still live within the time frame. This Commission

has approved this application, it is live, and they are seeking a modification. That's why we have the same number. It's like a living document. Depending on how the Commission votes, we go back into our official file, we put this modification in the file and therefore you have a paper trail. This is, this serves as a time stamp but it still has the same application number.

Chairman Block: Yes, it's 2013-10 which reinforces Chris's explanation. But again, let's at least wait until we get it Item six, at that point, let's go back to Acceptance of the Minutes.

**III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**  
(Each speaker limited to two minutes)

Ed Horn, 35 Crestview Drive: I'm a member of the Environmental Quality Commission and I'll make a report on our, week ago last Saturday we had our Earth Day clean-up. I think it was a great success. A good time was had by all. I think that it was cancelled because the rain hurt us a little bit, but we still had about twenty-two people show up to volunteer and we did a lot of good work to the parks and to the town's property on Cedar Mountain. I'd like to thank the Commissioners who participated and Commissioners Sadil, Casasanta, Clark, Zelek and Krawiec and also thank the two members that were on our sub-committee, that organized it and it was a pleasure working with them and hope to do it some time in the future.

Chairman Block: Any questions or comments from the Commissioners?

Commissioner Paskewich: I have a question. Did you say you cleaned up the mountain?

Ed Horn: Yes, I said, the town's property on the mountain.

Commissioner Paskewich: And the parks?

Ed Horn: And the parks.

Commissioner Paskewich: Which parks?

Ed Horn: We did Starr Park, Mill Pond, Beechwood, Clem Lemire, Churchill Park, Eagle,

Chairman Block: Any estimates on how many bags of rubbish or.....

Ed Horn: No, I couldn't tell you.

Commissioner Clark: We got two bags at Beacon, and that's the smallest one that was in the best shape when we started.

Chairman Block: Well thank you again, and we're looking forward to next year.

**IV. ACCEPTANCE OF MINUTES**

A. Regular Meeting of April 15, 2014.

Commissioner Clark: On page two, at the top, Item C, the date for that trails date is June 7<sup>th</sup>, not June 6<sup>th</sup>, and the other is, on page five, under Communications and Reports, Item 9, in the first paragraph, it's Mr. John Bachand, B-A-C-H-A-N-D, not Marchand.

Commissioner Paskewich: Page five, under invasive plants, second paragraph down, a correction, Associate Scientist with the Connecticut Agricultural Experiment Station, and page, fourth paragraph, I noted that he had been invited to attend a Fast Pace Environmental Workshop which I thought I said, It's a design charette.

Commissioner Sadil moved to accept the minutes as amended. The motion was seconded by Commissioner Casasanta. The vote was in favor of the motion, with six voting YEA and one abstention (Zelek).

Commissioner Igielski: Mr. Chairman, as a point of information, it had been previously addressed by the Town Attorney that even if a member is absent, they can still vote on the meeting minutes, I believe.

Chairman Block: If they have said that they have read them and reviewed the tapes.

Commissioner Zelek: I will continue to abstain, I have not read the minutes.

**V. PUBLIC HEARINGS**

**A. Inland Wetlands Regulation Changes – L.I.D. (Low Impact Development)**

Chairman Block: Chris, anything new?

Chris Greenlaw: I would like to read into the record the public hearing, and I will make a note to reiterate from last month, if the Commission so chooses to keep this public hearing open, which I would request they do, we don't need to keep diligently publishing this in the paper. The mere fact that you would acknowledge a carry-over here would suffice at this time, but I will still read what we published in the paper, and this was the New Britain Herald, 5/9/2014, and I believe 5/15/2014. "Notice of Public Hearing Town of Newington, Conservation Commission Town Hall Conference Room L101 Lower Level, Tuesday, May 20<sup>th</sup>, 2014 7:00 p.m. The Newington Conservation Commission will hold a public hearing to consider the following: Continued from April 15, 2014, Inland Wetlands Regulation Changes L.I.D, Low Impact Development. All materials and plans relevant to the above regulations are on file at the Town Engineering Office. Dated at Newington, April 21, 2014, Phil Block, Chairman, Newington Conservation Commission."

Mr. Chairman, I would ask you now if there is anyone here from the public who wishes to speak?

Chairman Block: Is there anyone who wishes to speak? Seeing none, motion to table this.

Commissioner Igielski: Before you entertain a motion, at last months meeting there was a discussion of staff providing the Commissioners with a copy of the TPZ memo. Is that something that is going to be mailed out in the future?

Chris Greenlaw: I would ask the Commissioners, did I not e-mail that to you? I'm trying to as much as I can Mr. Chair by e-mail, but certainly.....

Commissioner Igielski: I don't recall an e-mail and did not receive any paper. It's something that can just be reviewed later on and just sent out by e-mail or paper copy, whatever.

Chairman Block: I would suggest e-mailing it.

There was a request for a motion to table the public hearing until the next meeting and then a comment regarding the submission of additional materials for the record, an e-mail, so that's where we are at, at the moment. Chris, can you respond about the e-mail.

Chris Greenlaw: I'll respond to the request as it pertains to TPZ, so I will re-send that out to all Commissioners, make a note of that. Please confirm that when you get it.

Commissioner Igielski moved to table the public hearing on L.I.D. The motion was seconded by Commissioner Clark. The vote was unanimously in favor of the motion, with seven voting YEA.

## **VI. NEW BUSINESS**

### **A. Application 2013-10: 15 Clifford Street (Modification)**

Alan Bongiovanni: Good evening Mr. Chairman, Members of the Commission, Staff.....

Chris Greenlaw: Mr. Chairman, before you get into your dialogue over the modification, I would like to ask the secretary, I just want to reaffirm, there was a question as it pertains to modification of applications, and I did so already with the Town Attorney, and the past history, and in accordance with the rules of what a modification is, that's exactly what the individual is seeking. There was an application that was vetted, it was approved and now they are back and they want to explain, they want to have a dialogue with the Commission as far as something that they are seeking to change. It's a vehicle by which, that it keeps this living, they are within the realm of the rules, this permit would be good for five years, it would be good two years subsequent to whenever site work started without having an extension and I want to go on to further state that pursuant to the dialogue that the applicant is going to have with you, on a modification this is a living, live application. This Commission can vote on this as new business this evening. So with that, I just want to.....

Commissioner Zelek: So do you have anything documented from the Town Attorney regarding the submission of a modification?

Chris Greenlaw: No, I had a phone call with him just to reaffirm my reading. I believe as far as past history, I would look at the tribal elders as to how this has been entertained in the past.

Commissioner Zelek: So I just want to stay away from that because the way that we entertained in the past may be wrong, just because you have murder in the past doesn't mean murder in the future is okay. I would request of the Chair that the Town Attorney take a look at Article Seven in light of this, have him read it, review it, and then come back to us because there is no definition within our internal procedures as far as what constitutes an application, modification because again, we are seeing on the documentation the word application. There is a time stamp on it and there was a fee associated with it, so all of that needs to be considered as far as what our definition of application is, what do we do in the circumstances of a modification, and we should incorporate that into our internal procedures so that we don't have to go through this again in the future. I just want to make sure that we are doing it correctly, so if you could please have the Town Attorney read Article Seven of our internal procedures.

Chris Greenlaw: Mr. Chair, I will certainly ask him, but I believe it is unnecessary to hold this application.....

Chairman Block: We're not considering that. What is going to happen is that we are going to report back next meeting as to the Town Attorney's opinion on whether, and I'll give you an alternate way to phrase it, should this have been New Business, or should it have been under Old Business as a modification?

Commissioner Zelek: Or should not appear on the agenda at all according to Article Seven.

Chairman Block: Yes, so we can have that clarified, but in this case, again, the permit exists as 2013-10, I believe that we are going to be told that for external reasons they could not proceed totally in accordance with the approved permit and they are asking for it to be modified. Am I correct?

Alan Bongiovanni: Absolutely, if you will hear me out, I think that you are going to see that this is a technical revision to a permit that you granted. We're not going to add anything, or take anything away, again, let me step back, for the record, my name is Alan Bongiovanni, licensed land surveyor in the State of Connecticut, representing Norman Rainville in this modification to an existing permit that he has acquired from this Commission. The upper plan here represents the plot plan, the house location as proposed, as built, and this is on the property of Mr. Rainville, the proposed water quality infiltration basin. Due to reasons beyond Mr. Rainville's control, basically his mortgage company. They had worked since last September, his lawyer, with the mortgage company to get a release to allow this to happen. He's got a couple of acres of land there. This has no bearing on the viability of that lot. The bank refused, continued to refuse, and refuses today to allow this to happen. They weren't going to support that. They got what they got, they don't need to do it, that's his tough luck. So beyond his control, he still needs to accomplish the conditions of this permit. Well, as a proposal, we re-designed it from this location and put it here on the actual lot that it is going to service. It has the same capacity, it's a little different configuration, made it a little longer, so we took it from this dashed location, put it at that location, and both of them are within the regulated area, the upland review area, neither of them are within the wetlands, this was our clearing limit before, we are going to move it just a little bit towards the property line, it's the same thing. We are moving the location to accommodate the fact that the bank won't let this happen. In my wildest dreams I would have never assumed that could happen. I would have thought that the homeowner would have more leverage with the bank. Probably if he chose to take them to court and sue them, he would probably be successful. That's not going to happen here. We've got the homeowners who want to move into the house, they have to close on their mortgage next week, this is one of the remaining things that has to be done on this lot to complete it for that closing to go from a construction to a permanent mortgage and I think that you recognize this modification for what it is, we're not asking for anything more, we're not asking for anything less, we're not asking you to change your mind about how we are protecting the environment, just allow me to move it in a different location.

Commissioner Paskewich: So, question, going back to your original dialogue, I wasn't quite sure, are we eliminating the upper infiltrator basin?

Alan Bongiovanni: We would take it from this location, and move it to this. I actually, on the plan that you have, I dashed in the original location, the bottom of the basin.

Commissioner Paskewich: Okay, so we are moving it.

Alan Bongiovanni: We're moving it. From Mr. Rainville's property to the Condon's property.

Chairman Block: If you will, the original application which was approved was a novel request to allow the basin to be an easement on the original owner's property, so it was going to be a

burden on somebody's else's land after the subdivision occurred. The lending bank, for whatever reason they had, which is totally beyond our comprehension, said, no he has to do it all on the subdivided lot. Alan has accomplished that, Chris says that he's done so in a way that will technically function properly, am I right?

Chris Greenlaw: I want the Commission to fully understand it, and again, this goes back to what another Commissioner raised as far as his attention. I appreciate the fact that they would want to afford me the opportunity to have enough time to review this. We have been in communication over this. If you could point out where the property line was, what was the map that this Commission approved, which I believe is the upper one. On that map, where is the property line between the plot plan and the parent parcel.

Alan Bongiovanni: Right here. Right in that location there.

Chris Greenlaw: This Commission reviewed this plan, I reviewed it as staff, there are seventeen conditions that go with that approval. Through a letter, notification of action, and where I'm pointing, we have thirteen standard, there were four additional conditions. Three of them pertained to this Commission specifically as far as adding a bio-swale, if you want to read off those three.

Alan Bongiovanni: I don't have all of them.....

Chris Greenlaw: Okay, but the important thing to notice is there was one last condition, I want to point that out, and that last condition, number 17.....

Alan Bongiovanni: The gist of it was, the easement, proposed easement, had to be recorded on the land records prior to a c.o.

Chris Greenlaw: Let me read it, because this is really important. Why you are here today and we've had a lot of conversations, we've mentioned this to the Town Attorney, we've talked about it with staff, Condition Number Seventeen said that prior to the issuance of the c.o. the applicant shall provide a copy of the drainage and right of way easement which has been filed on the Newington land records, to the Town Engineer. The applicant informed me that Chris, Town Engineer, this is not happening. This is a legal situation. We've made this a condition, that there's a transaction such that there is a restrictive covenant on the other neighbor's property. The lending party for the parent property would not allow this, so I want to be perfectly clear that this applicant is stating that they will follow all of the other conditions, all the environmental conditions, they will give us all the structural, non structural bmp's and silt fences and follow the grading. They simply want to pull those improvement from the subdivision, the bio-swale, to their lot, so they are not escaping any requirements other than the fact one, that we would interpret as a legal.

Commissioner Zelek: So what happens with Condition number seventeen?

Alan Bongiovanni: If I may, Mr. Chair, that would go away. The facility is on his own property.

Chairman Block: The modification that we are in effect being asked to do is to strike condition seventeen from the permit.

Alan Bongiovanni: And acknowledge that we are re-locating that basin.

Chairman Block: Yes, and that it has been physically rehabilitated into the lot itself.

Commissioner Zelek: So, as part of this application, we are going to modify the conditions?

Chairman Block: Right.

Commissioner Zelek: All right, so if we are doing that, I notice that with the relocation of the bio-swale you are going to be using a conservation mix, is that correct?

Alan Bongiovanni: A seed mix.

Commissioner Zelek: That's going into the bio-swale?

Alan Bongiovanni: Into the bottom of this basin, yes.

Commissioner Zelek: Okay, so that's going to occupy that. I'm looking at the species, and there's wild rye, there's some milkweed, so I image that some of these are going to grow kind of tall.

Alan Bongiovanni: Yes.

Commissioner Zelek: Can we get a condition that, would you be agreeable to a condition that that area will not be mowed or maintained so that those wild grasses, conservation mix can do.....

Chairman Block: I would agree with you as far as being mowed, but on the other hand, I think eventually it would have to be maintained. Otherwise, it could lose its capacity.

Alan Bongiovanni: They do recommend a couple of times a year in something like this where it's against an urban setting, that you would weed wack, and you know, it's very small. We're talking about something as big as this desk probably. Not to cut it with a lawn mower, but what will happen if you don't do anything, you are going to get woody trees growing there.

Commissioner Zelek: Mr. Chair, neither you, I, or the applicants can speak with any degree of expertise. I would like to hear from Chris, what his thoughts are on maintaining this.

Chris Greenlaw: I would agree that even with our own detention basins, don't hold me to this, but I do repeatedly go to Parks and Rec and ask them, in traditional detention ponds, to try to cut back at least, once or twice a year at a minimum. Once you have woody ornamentals they pull in the banks and they do a lot of harm, but the other thing is too, you want a certain level of maintenance, especially in the bottom, because the bottom, well, the slopes, you don't want any woody ornamentals, but number two, more specifically in the center. That's where you want a pervious mix. You want that water to percolate down through. So we wouldn't want something growing very high, or getting very leggy in there because we want it to continue to accept that water and percolate it through, and then have it go out through the feeder pipe.

Commissioner Paskewich: Chris, can you explain the need for the conservation extent?

Chris Greenlaw: I think what they are trying to do is create more of a naturalized setting because you have, you're in the buffer area, you have your wetlands down below you, and I think what you're doing is you are going for that tertiary growth. You have a canopy, you have it open to the woods, and what you are trying to do here with this mix is, you are trying to have something from a manicured lawn as you transition to that wetland. But, that question should be to the applicant.

Alan Bongiovanni: I think your description is correct. So, you are basically augmenting an edge condition here, with transitional vegetation that also has qualities that remove nutrients and things from the water. I mean, we are not talking about highway drainage here, we're talking about roof water and lawn water.

Commissioner Paskewich: Okay, I see the degree of use.

Chairman Block: Can we resolve this by suggesting that seventeen be changed to something that the applicant/property owner shall maintain the functionality of the detention basin? Clear it and maintain it as necessary in the future so it works. Is that agreeable?

Commissioner Zelek: I did notice that on the proposal that the driveway is a bituminous driveway?

Alan Bongiovanni: Correct.

Commissioner Zelek: So, given our new low impact development regulations, is there any type of impervious surface that you might suggest there, Chris?

Chris Greenlaw: No, not at this time because the original application, well, there are two things going on. It's here before us on a modification, but let me step back. The bio-swale is a LID technique, so the front of the house, versus the back of the house, this plan already incorporates an LID method or technique, and I'll go one step farther too, there's a lot going on, on this plot plan. Traditionally there's a lot that goes back and forth between us and the design professional. In the true essence of good practice, for storm water control, there is a fine line, I mean, LID, low impact development is really doing three things. It's attenuating water differently, it's cleaning that water and it's trying to recharge the ground water and that's LID, that's what we are trying to achieve. If you read in the DEEP storm water quality manual, they would even tell you that, well, let me step back even one more step, pursuant to Zoning asking a residential lot to put roof leaders on a house is outside my bounds, they have done that. Number two, if you read in the DEEP manual that you are picking up roof leaders and are putting them into a bio-swale, we don't need to do that, there's actually an exemption for that because it's quote, clean water. What we're doing here is because what we are worried about is a large expansive roof, and conveying that water at high velocity and getting erosion, so we are capturing that, and this applicant, the design professional has fully complied and there could have been two yellow flags on the plan, I want to step that out, so that, combined with the fact that we already have a bio-swale in design, that's why I don't want too much growing in the bottom of this because the intent of the bio is to take, it's going to control the water, it's going to recharge to a certain extent that water and what it doesn't recharge, there's a puddler pipe and there's a certain cleansing and cooling action that is going on too with the roof water. So, I felt comfortable with this as an LID technique, and the fact that they were able to pull it onto the property was a difficult task at that, too because there were other things we had to look at.

Commissioner Zelek: The basis of my question was to give you the opportunity to look at the LID initiative. What is your recommendation on the conservation mix, because you said the center should be, remain clean, what about the banks, what do you want to do there.

Chris Greenlaw: Banks, we don't, we want it at least twice a year, we don't want the woodies. Someone mentioned woodies, that's a very good observation and that's usually, once you get that growth, it's very hard to maintain, you get winds, it starts pulling the slopes apart, could be a problem. More so at the center, we want, there is a cross section that talks about the medium to course sand, loosely placed. We don't want anything growing in there.

We want the water to be able to percolate down through that layer and get into the ground, that's the intent, so it's one thing to have plants in here, but we don't want it to just grow to a point where it is just fully condensed with root pack and everything else collecting silt. You want it maintainable.

Commissioner Clark: Chris, as far as, sort of a general question, that then becomes specific about maintenance of LID since this is a town wide initiative, are home owners going to be, and again, the home owner may not be the ultimate home owner, going to be educated in how to maintain these, at which point in time does the Town step in, is the developer part of the education process because the average homeowner may not have an idea on what is this mix of plants, what is the goal, they just know something is in the backyard and not taken care of for them, so what is, how do you go forward with this as far as long term education, maintaining the LID properties all over town?

Chris Clark: More importantly, the \$64,000 word is education. We are still educating ourselves, we have regulations that we have accepted that we are still going through, and we are trying to break it into palatable bites. We have a manual, that we have combined the LID manuals with methods and techniques to assist professionals, number one, and we tried to break it down in palatable bites for residents. It's been a huge undertaking for ourselves. We are educating ourselves, we're educating the public, people who come to us, and additionally I think creating a reference book in addition to the manual, so like anything else, whether it's an illustration and this reference manual that we are creating in engineering as more and more professionals come in and we are learning more, and over time we can see what types of bmp's are working, and those are the ones that will try to lend themselves, and there is a lot that goes into it. You just have a broad term, LID, every site has its own unique properties. Number one, what's the soil, what's the topography, how much impervious do we have, what are those elements that are going to wash off that property, that you want to mitigate, you know, whether it's just volume metrically, whether it's chemicals, and we're actually putting in, I'm building a guide in engineering, so there's two things going on. We don't have a huge course history in LID. We're one of I think seven towns that have incorporated this in our regs. We are talking to our peers, anything that is put in to the ground we are monitoring, and we're building another illustrative guide so people can actually look at it. It's one thing to have an app on the phone and then someone says how do I get square footage to determine how runoff is coming off here, so we have our hands full, educating. It's going to be hardest for the residents, so even before we get down the road as far as, hey, this particular LID method or technique didn't work, on the front end, we are putting in an expansive amount of time. We're still educating ourselves, but that was a very good question.

Chairman Block: Having said that, and I it's a very good subject for discussion when we are dealing with the LID modifications, but as far as this application is concerned, we have a permit that has been issued, we have a request for a specific modification, I think that it is only fair to the applicant that we restrict ourselves to considering whether or not the modification requested is acceptable, and as Jeff has pointed out, the only issue which I believe needs to be changed is condition seventeen, we need to amend by removing condition seventeen and substituting, that the property owner shall maintain the functionality of the detention basin into the future. Does anybody have anything contrary or anything to say regarding that course of action.

Commissioner Paskewich: So we are putting the level of consciousness of maintaining it on the home owner as a condition? Are they aware of that now?

Alan Bongiovanni: They are aware of that. They had to make the decision, they had to accept this.

Chairman Block: This is what the prior discussion was, in dealing with LID, you know, it seems like there is an obligation to maintain it into the future, otherwise you lose functionality. That's something that I don't believe that we discussed at any of our prior discussions as a generality. Now we have this specific example, I'm suggesting that we anticipate the logic of adding it as a condition.

Commissioner Zelek: Typically when we get an application in front of us, we don't vote on it the same night, we usually have a chance to review the minutes and the application in detail, my sense is we are trying to push this along to a vote this evening, can I get an explanation as to why?

Alan Bongiovanni: There is a time constraint here. You have a homeowner, from the other Commissioner's comments, this is not speculative, the resident, the person who is going to live here and maintain this, he's aware of it, he's the one that bought the house. They have a closing scheduled tomorrow. Again, the applicant, Mr. Rainville, through his attorney, has worked over nine months to try to satisfy this. We knew about six weeks ago, that we could not, they could not make this happen, so we have been in contact with staff, as to how to best do this. I thought, personally, I thought maybe it could be handled as an administrative type thing, because we're not taking anything away from the approval, other than being able to move it and through his guidance, and I guess the Town Attorney's guidance, come back for a modification. So we are here. But they have a time constraint. You have a homeowner that is ready to move into this house, he has his mortgage converting from a construction to a permanent, he's got that one closing, if he loses that, he loses the rate that he has. To extend this beyond that period for what we are asking for, is penalizing the poor guy, because the bank, Mr. Rainville's bank, wouldn't play ball.

Chris Greenlaw: I just want to reiterate, there is no condition, other than number seventeen which basically becomes moot, because you are moving the water quality basin from Rainville property to this, your client's property and they are going to fully comply with all of the conditions that are set forth.

Alan Bongiovanni: Absolutely.

Chairman Block: What is the Commission's pleasure?

Commissioner Paskewich: I feel, listening to the applicant's representative, working with the Town Engineer and staff, putting the two together with the plan that is engineering, not seat of the pants, and that's the only thing that is changing, I'm for moving it ahead.

Commissioner Zelek: So regarding the revision on condition seventeen, I would like that Chris please use his expertise to help us craft the wording so that it satisfies whatever it is that he has to maintain within that area.

Chris Greenlaw: I would ask the applicant, are you adding or subtracting anything from the approved plan with the bio-swale other than its size and shape? You have not added any different types of planting.

Alan Bongiovanni: We have not, no.

Chris Greenlaw: It was not the desire of the Commission, previously approved and it's an identical bio-swale other than it's size and shape.

Alan Bongiovanni: Yes.

Chris Greenlaw: I guess I would ask the Commission why we would incorporate additional conditions of approval on a bio-swale that was previously approved, other than it's location.

Commissioner Zelek: The location previously was off site, this new location is directly in their backyard and my concern is that the homeowner would do some kind of maintenance to it that would disrupt the conservation mix that is proposed on the application, or the function of the swale.

Commissioner Sadil: The applicant was receptive to such a condition is that what I heard earlier?

Alan Bongiovanni: Yes.

Chairman Block: Again, just to move this along, I would like to ask the applicant, the condition as I phrased it before.....

Alan Bongiovanni: I think the gist of your.....

Chairman Block: The property shall be maintained for the functionality of the retention basin.

Alan Bongiovanni: And I would limit the cutting to once in the fall, like people who have ornamental grass, they cut them at the end of the season, you don't have to cut them mid-season. Cut it at the end of the season, once a year, after the growing stops and that will maintain the height of it, and not to be disturbed. That will maintain the integrity.

Chairman Block: Well, again, my two cents is, I don't want to be that technical. It's there to accept the drainage, I want whatever it takes, whatever he is going to have to do to maintain its functionality.

Commissioner Clark: I'm going to back to what I asked Chris and I think Mr. Bongiovanni has been working directly with the homeowner, but my point was, if there is another homeowner down the road, and I like the idea of being more specific, as Mr. Bongiovanni suggested, to maintain this, once a year mowing, versus too much mowing versus not enough mowing.

Chairman Block: Such maintenance shall include mowing at least once a year.

Commissioner Clark: Well, you don't want to mow it too often. You don't want to say at least, the guy could mow it every week, and I think making the education of the homeowners part of your condition, you would be covering all our bases. You would be covering the new LID, you'd be covering what Mr. Bongiovanni is advising the homeowner, but you're working with someone that you know, so you know that he's going to do it, but again, we're all in homes that, I'm the second owner of my home and I'm going something different than before.....

Chairman Block: I have no disagreement when we are talking about the LID regulations that we can delve to a far greater extent into whatever maintenance is appropriate and necessary to maintain the functionality. Here we are going it a little bit ad hoc, so are we in agreement that the area shall be maintained?

Chris Greenlaw: Mr. Chair, my hesitation is that we would have too much maintenance, and that is exactly what I was getting at. You want a certain naturalized state of that transition area, and you don't want it to be a golf course, at the same time it's tricky, because something to the fact that, once or twice a year, you know, we're kind of looking at a maximum maintenance, because we don't want the plantings to die, and at the same time, we want it to function. So it's a balance. Obviously if we get overgrowth in the center of the swale, so to put that in as a condition, something along the lines of that the bio-swale should have a maintenance program such that it is trimmed or cut, not to exceed two times a year.

Chairman Block: How about just say, maintained.

Chris Greenlaw: Twice a year?

Commissioner Clark: No, too broad. No one is going to go and check our regulations which are not written yet. Too broad.

Alan Bongiovanni: Trimmed to a height of twelve inches after the growing season. That way you are not scalping the ground, you are going to leave the growth and then in the spring it will start taking off again.

Commissioner Zelek: I like what Mr Bongiovanni is saying, I just want to make sure that it's the best course.

Commissioner Paskewich: I would concur.

Chris Greenlaw: Because as the Commissioners have brought up, what is someone's interpretation of maintain or even cut, so having a minimum height is probably better.

Chairman Block: Again, trying to reduce this to language, the property owner shall maintain the functionality of the bio-swale basin which shall include trimming the vegetation to a height of no less than twelve yearly, after the growing season. Is that.....

Commissioner Clark: I would say, once a year instead of yearly.

Chairman Block: Okay, once a year.

Commissioner Clark: Once a year is much more specific.

Chairman Block: Is that agreeable to the applicant? Okay.

Chris Greenlaw: Can I add just one more thing. The applicant has provided, there is a certain, the topic was addressed as far as maintenance, at least when it talks about the wild life mix, it goes on to say that the mix is designed to be a no maintenance seeding and is appropriate for cut and fill slopes, detention basins, side slopes specifically and disturbed areas adjacent to commercial and residential projects.

Chairman Block: Yeah, but I don't think it imposes a duty on the owner.

Commissioner Paskewich: But it does make it clear, it says the mix is designed to be a no maintenance seeding, so we are going beyond the description of the actual use of it by making the condition. I mean, it's clear on the paper.

Chairman Block: Well the point that was raised, which I happen to agree is valid is that if it's left uncontrolled, the woody plants will take over.

Commissioner Zelek: Are there woody plants in that mix?

Chairman Block: No, but they are invasives. They'll come in.

Commissioner Zelek: So it's okay that we say it will be maintained and no invasive species.

Commissioner Paskewich: I think we are getting too technical as technicians, and we are not technicians. I'm not a landscape architect. I don't want to make a condition specific, I can't do it myself.

Commissioner Zelek: I like of like the fact that it's maintenance free, shouldn't be cut or maintained, and if it wasn't cut or maintained Chris, does that interfere with the function, other than the concern about the invasives?

Chris Greenlaw: Yes. Again, so close to a wetland, anything unmaintained at all, you know, invasives could take over.

Commissioner Casasanta: The soil, like you said, will compact with the growth of the vegetation, and it will lose it's functionality as the purpose that it was intended for.

Commissioner Paskewich: And who is going to determine what the invasives are and which ones should be taken out or not, I mean, it's a real technical issue.

Chairman Block: There's also native species that will log into it and convert it, so I think going back to just maintain it, and having it trimmed to a minimum of twelve inches once a year is as practical as we can get at the moment.

Commissioner Clark: I do agree with that. I think you know, when I re-read this now, I think the phrase no maintenance is pretty optimistic and maybe we should look at that in future applications as to whether that is appropriate, but not for this one. I think that again, invasives are a fact of life, but you can keep a lot of them down just by your yearly trimming.

Commissioner Paskewich: I'm in agreement with that.

Commissioner Clark: The average home owner understands what it is, understands twelve inches, understands cutting, understands once a year.

Commissioner Paskewich: But like you said, we will have to look at these descriptions in the future.

Commissioner Sadil: I have some words here, you won't have to call a recess, but pay attention here; applicant shall maintain the bio-swale that it will be trimmed to a height of no less than twelve inches after the growing season.

Commissioner Casasanta: Once a year.

Commissioner Sadil: Okay, once a year.

Chairman Block: Is that agreeable to the rest of the Commission?

Commissioner Igielski: Is that once a year after the growing season?

Commissioner Sadil: We're just saying, no less than twelve inches once a year, after the growing season.

Chairman Block: And this is to be substituted for Condition seventeen.

Commissioner Igielski: There should also be additional wording in the proposed motion with respect to the Commission accepting the applicant's relocation of the basin from the previous location to the applicant's property.

Chairman Block: Well I think the way to solve that is the motion would be, the Commission accepts the modification of the permit to allow the location of the bio-swale within the boundaries of the lot as shown on the plan. That's the body of the motion, and that condition seventeen is omitted and the following.....

Commissioner Igielski: Revised

Chairman Block: Revised to read.....is that agreeable to all?

Commissioner Igielski: All other conditions remain in effect.  
I would suggest that Commissioner Sadil be the one to make the motion since he has written everything down.

Commissioner Sadil: I submit a motion to revise the condition seventeen.....

Chairman Block: No, to modify the permit to allow the bio-swale to be located within the property boundaries, and to amend condition seventeen to read as follows:

Commissioner Sadil: Okay, so I'm submitting a motion to allow the bio-swale to be moved onto the property and to revise condition seventeen as follows; applicant shall maintain the bio-swale so that it will be trimmed to a height of no less than twelve inches once a year after the growing. All other conditions, one through sixteen to remain in effect.

The motion was seconded by Commissioner Casasanta.

Commissioner Zelek: So before we go to vote, there was a piece that we talked about earlier, getting the opinion of the Town Attorney regarding applications like this coming in. I asked that that response be given back in writing so that we can share it with all of the Commissioners, but I had referenced Article seven.....

Chairman Block: Yes, and I agreed to all of that, but it's not part of.....

Commissioner Zelek: I know it's not part of, but the request was, we started that discussion as part of this, so I want to finish. There is one other item, I had mentioned it was Article seven, I also want the attorney to look at the Connecticut General Statutes to see if there is anything in there regarding the timing and the acceptance of applications.

Chris Greenlaw: What I would ask Mr. Chair, is that I would like the Vice-Chairman to send you an e-mail, through you, to me, and I will forward it.....

Commissioner Zelek: I have already read this into the record, so I want this to serve.....

Chairman Block: I'll reiterate it and I'll send a copy back to you Jeff so we can make sure that we are on the same page.

The vote was unanimously in favor of the motion, with six voting YEA.

**VII. OLD BUSINESS**

**A. Inland Wetlands Regulation Changes – L.I.D. (Low Impact Development)**

Chris Greenlaw: I have nothing to report at this time. I recommend the Commission consider this as Old Business for next month.

Commissioner Clark moved to carry over the Inland Wetland Regulation Changes – LID to next month's meeting. The motion was seconded by Commissioner Paskewich. The vote was unanimously in favor, with six voting YEA.

**B. Community Litter Pick-Up**

Commissioner Krawiec: As Ed Horn mentioned we had a lower turnout than expected, but I want to thank all of the Commissioners and certainly Commissioner Clark for participating on the sub-committee. We are looking at a possible, another litter pick-up date in September so we're getting together in August to discuss possibly launching another date. I would invite the other Commissioners that attended, and I want to thank each one of them because we had a tremendous turnout of the Commissioners to help pick up the litter, but when we looked at the sites, I invite them to speak about what they found and what we found was a tremendous amount of litter and debris in a lot of the wetland areas that was quite disturbing. So part of my report, my written report, I will be submitting to the Town Engineer some of the areas that need some attention. Starr Park, there is a picnic bench laying in the wooded area, hockey goal in the vernal pool, there's also a huge amount of tiles that a home owner dumped into the wooded area, there's also eroding banks. It appears that a home owner appears to be having some construction done. There's also some other additional areas, I won't go on and on, but I will submit this for follow up. The question that I had of the Commission here is, when we vote on these applications and we allow development, but what do we do for the oversight to ensure that these wetlands are maintained?

Chairman Block: Well, in actuality, the Town has never budgeted for staff to actually do any policing. It's been happenstance as to whether any staff comes across these situations, we've had many reported to us, in which case we have taken enforcement action. In this particular case, what I would like to suggest is that, if you or the committee would put together a memorandum saying these locations and what you found, and then we would submit that to public works and parks and rec for them to address to the extent that it is town property.

Commissioner Krawiec: Thank you Chairman, because I have right here a complete list of all the sites that do need action taken so we can continue our efforts, with some suggestions made for parks and rec and I've also submitted to the other Commissioners the complaint forms that Chris was kind enough to give me, of which I've filled out five myself, and invite other Commissioners, to the Chair's point, as we see things, to alert our town so that we can maintain the wetlands.

Chairman Block: So what I would suggest is that if you give them over to Chris, he'll, through inter-office mail get them to the right departments.

Commissioner Krawiec: Can I simply provide these to Chris, I've had some conversations, so he is probably expecting them.

Commissioner Zelek: Commissioner Krawiec had mentioned a backyard that is on Brook Street, next to Starr Park. I wanted to ask Chris, did we have any administrative approvals in that area. The resident's address is on Brook Street and what we observed is that there is an embankment in the backyard with what looks like some professional excavation taking place, there's some trap rock there, and the drainage goes directly into the wetlands.

Commissioner Krawiec: And I will also say, because I was at Starr Park on a couple of occasions, within a months time, that driveway went from a dirt road with a (inaudible) that looked like it could have fallen into the ditch area, to what looks like to become professional driveway development.

Commissioner Zelek: So Chris, are you aware of any administrative applications?

Chris Greenlaw: I'm aware of a lot of administrative applications, and what I suggest Mr. Chair, what I really recommend to the Commissioners, you know, in my capacity I wear a lot of hats, and I'm sure the manager doesn't want me to become a go-between. What I would really appreciate, if there are these egregious acts, if there is certainly a wetland thing that you want me to send staff out to, yes, we do that, but now when we start getting into the realm of Starr Park and there's another area over here that might be public works, I don't work in the capacity of a Director of Public Works. I cannot direct my peers, the Manager works as the Director of Public Works, we have a public works meeting. You give me that list, I'm going to start going down through it and say, okay, we are going to put it on the agenda for our next public works meeting, and it's going to take a lot longer. I would send, if you have general concerns for parks you can send it directly to the Manager and then when he acts as, when we have our public works meeting, then he has that information in front of him, and he will put it on the agenda much like we have an agenda, we'll meet and he'll hand off to his Park and Rec superintendent, if there is something with highways, he'll give that to highways, and then they follow up with him.

Commissioner Krawiec: I just want to say, the parks themselves were fairly well picked up. It is the area that surrounds the park that is very unattended to. That may be where we are involved because it is wetlands.

Commissioner Casasanta: My concern with Starr, I wasn't there on the clean-up day, I went there on the site survey, and what is being done by that homeowner is having a significant in my opinion on the wetlands. It abuts a wetland, it's not even in the wetland review area, it's actually right on the edge of the wetland and what they are doing is significantly impacting the wetland. I looked at the sloping, the sloping is very steep, it's not, it's going against everything that we're trying to do here.

Chairman Block: So what you are saying is that it is an actual wetland violation. Would you arrange to have staff take a look at that?

Chris Greenlaw: Again, you have a comprehensive list, and as I indicated, I would outline if it is a park, I mean, feel free to give me a list, but I would also give it to the Town Manager.

Commissioner Casasanta: That was my other point, I don't know if that is actually part of the park, whose land it really is, is it town land that is not part of the park, I don't know who has responsibility.

Chairman Block: Again, I think the mechanism is easier if Deborah gives the list to Chris tonight, Chris will pass it through the inter-office mail to the Manager, the Manager will assign it to whomever is appropriate to look at it, and hopefully we will hear back that it has been addressed.

Chris Greenlaw: More specific to me is the wetland, so if we have an address, or you point me in the direction, other Commissioners have sent e-mails, please look at this area, so that is something that department staff could look into.

Commissioner Zelek: I have another issue for you, Commerce Court. If you recall we had an application in front of us, and that was a conservation easement. Commissioner Krawiec has seen what she believes is some cutting in that area, of the conservation easement. I went there myself, I saw the same cutting, so I filled out a complaint form that unapproved cuttings have been, appears to be happening, so we would like staff, whoever among the town officials who investigate, but also would like to get a report back, so how do we manage that?

Chairman Block: Well, I think when you submit the form, we'll accumulate a record of what we are submitting and we'll put in on as Old Business and get a report on notices of complaint. I think it could even go under Communications and Reports.

C. New initiative – Vernal Pools

Commissioner Zelek: Nothing to report

D. Invasive Plants

Commissioner Clark: Just a brief comment about the first two weeks of May are the spring bird census, supervised by the Hartford Audubon Society and several birders from Newington take a count of birds in the town, just a qualitative observation by some of the birders that in past years certain areas used to be more full of bird life, especially the nature trail at Churchill Park, and with the advent of the invasives, we cannot make a connection, nor are we citing specific numbers, our general observation is that the bird life has decreased quite a bit because of the invasive plants.

Chairman Block: I had made a couple of calls to the DEEP to try to get a study on the invasives, particular down near the ball field at Churchill Park. I haven't heard anything back at all, so I'll keep pushing on that, see if I can get somebody interested in doing something there.

**VIII. PUBLIC PARTICIPATION ON NON AGENDA ITEMS**

(Each speaker limited to two minutes.)

None

**IX. COMMUNICATIONS AND REPORTS**

a. Application 2014-7AA, 56 Moreland Avenue

Chris Greenlaw: Mr. Chairman, as you know, I reviewed with you the agent application, it was for an existing house that was being flipped. There was, what alerted me to this was, there was activity, there was communication between departments, and the applicant came forth to us to discuss how they going to, the whole lot was in upland review, the back portion of the lot is actually Mill Brook, and after having a dialogue with the developer, they

acquiesced, came in, we told them at a minimum they were going to need agent approval, we had a dialogue, they let us know their intentions. At the end of the day they are actually going to improve the turf establishment and lawn restoration where they had some piles of debris that they had to remove off site. There is a portion of the driveway that was removed and they actually, at the end of the day, put up a solid fence between the upland review and the wetland area, which I thought was a good thing, and the mitigation efforts, the footprint of their activities, we had proposed that they install some plants by the wetlands. The developer after, most people after a communication effort with our staff when we sit down with them and we spend an extensive amount of time with them, and I tell everyone that comes before me, this information that I provide to you is statewide, so whether you are building houses in Newington, New Britain, out east, where ever you may be, the law is the same. So usually most people are reasonable, and once they become aware of what they need to do and what wetlands are, I tell them out map is 24/7, it's on line, many towns are like that, they sit down and they comply. They start listening and they know that when they conduct business in another town this is following them, something that they need to know, so this individual fell right in order much like our last house, and I sat down with the Chairman and we now even have a fence between the buffer and the wetland at the end of the day, I think it's going to be as functional as it is aesthetic, and we got some plantings and I think at the end of the day, it's going to be a much improved site adjacent to the wetlands, and this was an existing house, and other than the brick pavers out front, the driveway, the grass, they are actually reducing a lot of impervious because they took away a detached garage and existing driveway, so it's a good coordination effort between our Zoning Department and at the end of the day, it's an agent approval of course, being in the upland review.

Commissioner Paskewich: I didn't catch the beginning of this, I don't think. Is this in an existing development?

Chris Greenlaw: Existing house.

Commissioner Paskewich: By itself?

Chris Greenlaw: By itself.

b. Application 2014-08AA, 182 Cottonwood Road

Chris Greenlaw: Here is a site that we were alerted by a Commissioner to pay attention to. We were given an address and certainly there were some alleged acts to look into. There has been an extensive amount of dialogue between us and the management company for the master homeowners association. What we have learned is that there is up to seven associations apparently, so we took some time, but the maintenance company and the master association, there's been a lot of dialogue as it pertains to what was a storm water detention basin with an outlet structure, failing, leaking, as any.....

Chairman Block: The outlet structure?

Chris Greenlaw: The outlet structure. As the Chairman calls it, the plumbing, our storm water conveyance, and what it is, is we have had discussions and we can see that it is very obvious that there has been a failure in the concrete on an outlet pipe. And one of the Commissioners had contacted us, brought it to our attention, there has been a lot of dialogue as you would imagine. A homeowners association acts as a governing body, so all of the decisions that they make, management company has to solicit quotes, they have to be educated on the wetlands as well as the storm water and we provided them extra plans, we provided them past, I think in 1996 roughly, there was an application for removal of sediment

and there have been discussions, management company soliciting quotes with possible remedies to repair and they way it was left last Friday we met with them, on site maybe last week, explained everything to them, they came in, in preparation to pull a permit. I brought the Chairman on board to explain the situation to him as far as what their intentions were, with this structure and it's in their court. Last I heard they had to go to the board, they had to propose the fix, the cost, we spent quite a bit of time with them, and we are waiting now in receipt of their permit application.

Chairman Block: Again, the retention pond is approximately a thirty-six inch concrete upright pipe that acts as a spillway receptacle and part of the chopped out entrance point had eroded out and expanded considerably which would eventually have lowered the level of the retention pond, draining it, and the proposal that they made was to have it repaired which would require the contractor to approach the pipe itself, and trample in the muddy slope if you will. So we added some safeguards for them to keep the debris out of the pond, maintain the integrity of the wetlands soils around the pond and to repair the pipe. That proposal we've been told is apparently before the board for them to act on, and I would presume that it is going to be approved in the near future. If not, we'll keep an eye on it.

Commissioner Krawiec: I have a question. There were fish in that pond because there was some type of instrument put in there to provide oxygen to the fish, frogs and turtles. Since then I have seen one frog and the fish are dead. So the question is, with this situation, are the fish dying, is it related to this? I was informed that a retention basin is not meant for wild life, but they put oxygen in there so that the wildlife can be there. Now with this situation, I'm just curious.....

Chris Greenlaw: Don't quote me on the date, but when we went back to one of the previous permits at the direction of the Chairman of this Commission back then, they told them that they would have a maintenance plan. It would be bestowed upon them, the responsibility to clean their basins, to clean the swales, and the detention pond itself. I believe for some reason, '96 sticks in my mind. They actually in '96 came in for a permit and they drove equipment in there and hauled out all the framites and whatever else was there. Something as expansive as that you know, if there was fish, again, it's a feature that was added to the storm water conveyance system afterwards. You are at the head of the system where all these pipes outlet from this development. The development was on the books roughly around '74, '75. '79 was phase two. As part of phase two, they built past that pond and they added for storm water conveyance. A lot of pipes come in there and they have that outlet control pipe. The outlet control pipe has a sluice gate, and literally the grouting around the pipe is what has failed. It's just something over time, it's the weak joint, pretty soft, pops out, and that's what they want to fix. I can't tell you if that caused a certain amount of fish kill, but I will tell you that the homeowners association is going to be responsible for cleaning that out again. Chances are they are going to go in there with equipment and I don't know waht kind of plan they are going to put in place, when they come before us for a major sediment removal, much like we did at Mill Pond.....

Chairman Block: What I would suggest is if there is only one or two fish seen that died, they it's probably something natural. If there is a fish kill, where you see a lot of them, they I think the homeowners association would want to investigate to see if somebody put some pollutants in that would kill them, and it's their fish, it's their pets if you will and they can follow up as they wish.

Commissioner Clark: I have one brief communication. It's just to remind the Commission, especially I corrected the date on the National Trail Days celebration. There is a Cedar Mountain bird walk on Saturday June 7<sup>th</sup>, at 7:00 a.m., led by Anita Schaefer and Roy

Zartarian, and they walk on the old Cedar Mountain Trail and they details on Parks and Recreation site.

Commissioner Zelek: Do we have any updates for the public regarding the modification of the agenda?

Chris Greenlaw: No.

Commissioner Zelek moved that the Commission go into executive session. The motion was seconded by Commissioner Clark. The Commission entered into executive session at 8:30 p.m.

The Commission adjourned executive session at 8:50 p.m.

**X. ADJOURNMENT**

Commissioner Sadii moved to adjourn the meeting. The motion was seconded by Commissioner Casasanta. The meeting was adjourned at 8:54 p.m.

Respectfully submitted,



Norine Addis,  
Temporary Recording Secretary