

TOWN OF NEWINGTON
CONSERVATION COMMISSION

September 16, 2014

I. CALL TO ORDER

Chairman Philip Block called the September 16, 2014 meeting to order at 7:00 p.m.

II. ROLL CALL

Commissioner Present:

Chairman Block
Commissioner Igielski
Commissioner Zelek
Commissioner Clark
Commissioner Sadil (7:08)
Commissioner Casasanta
Commissioner Ancona
Commissioner Paskevich-A
Commissioner Krawiec-A
Commissioner Manke-A

Attorney Peter Boorman
Chris Clark, Town Engineer

Commissioner Paskevich was seated for Commissioner Sadil.

Commissioner Zelek: Mr. Chair, before we go into public participation, I'd like to suggest the agenda since the public has expressed that we move items up before Executive Session.

Chairman Block: I was planning on considering that after the public items on the non-agenda items because they are items on the agenda, but what is the desire of the Commission.

Commissioner Zelek moved to move items under Communications and Reports, that would be Item Ten, move it up to Item Five, right after the acceptance of the minutes.

Chairman Block: Now is that all three, or just two.

The motion was seconded by Commissioner Clark.

Chris Clark: Mr. Chair, I have a question for our secretary. As far as the motion to move those items, the question I have is, as far as the applications that we have before us, we have residents and professional business people who have paid for applications to be heard. Could we move those items, not in advance, but after those, could we have considerations of the applications of the people before us that we have this New Business and Old Business.

Commissioner Igielski: That could definitely be a consideration. You have to put these on the agenda, it's up to the maker of the motion to make that as part of the motion.

Attorney Boorman: Let me just interject that there is an executive session scheduled for tonight which there is an attorney attending that is scheduled to be at 7:45. This was done in conjunction with setting the original agenda. He scheduled that accordingly, so I would hope

that you would take that into consideration. I just ask that whatever you end up doing that the regular session stop and at 7:45, 8:00 do the executive session and continue after that.

Commissioner Ancona: I disagree, I'd like to do the executive session at the end because you know it is going to be going very late.

Attorney Boorman: Well, that's one of the reasons to do it early. The gentleman is scheduled, based on the agenda that was published.

Commissioner Ancona: I appreciate that and I have great deference to the bar but there are a lot of people here who would like to speak.

Attorney Boorman: They are going to be able to speak in public participation, they won't be able to speak during the meeting, that portion that you want to move.

Commissioner Zelek: Mr. Chair, in response to the attorney's comments, I don't see anything on this agenda that makes us time bound to this executive session, had we known he had scheduled this for 7:45 I think we would have scheduled accordingly. This is kind of new information for us.

Chairman Block: What I would suggest is that we get to it, and if when Attorney Ziska comes, I think we can adjourn to the executive session, and if there is anything left over, in other Old Business beyond the application or something else, then we can resume that after executive session. How does that sound.

Commissioner Ancona: That sounds very nice, but I want executive session at the end, that's just my opinion, I'll defer to the.....

Commissioner Paskevich: I don't agree with your opinion, I agree with the Chairman's opinion.

Commissioner Casasanta: I'll second that.

Chairman Hall: The motion, if you will repeat it?

Commissioner Zelek: Well, I'll have to withdraw the first motion, and are you asking me to place the items that the public is interested in under Communications and Reports prior to the executive session?

Chairman Block: Yes, we'll adjourn to executive session when Attorney Ziska shows.

Commissioner Zelek: Okay, I just want to withdraw the motion, and make a new motion that we move Item ten Communications and Reports prior to Executive Session which is Item eight on the agenda.

Attorney Boorman: With the understanding that when Attorney Ziska comes we will adjourn to Executive Session.

Commissioner Zelek: Yes.

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

The Chairman recognized Adreas Sadil at 7: 08 as a full voting member.

Commissioner Igielski: To make mention of the fact that the vote on the last motion include Alternate Alan Paskevich voting for Andreas Sadil who was absent.

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

Roy Zartarian, 25 Stuart Street, Newington: Good evening. Knowing full well I have only two minutes what I'm not going to talk about how the town is ignoring legal restrictions, and the role of this Commission in its dumping and paving activities. What I really want to talk about is Cedar Mountain and let you know that there is still among the community great support for the preservation of the mountain and for the stand that you took in February, 2013 in dealing with an application to develop up there. Last night a petition went on line through Move-On dot org which some of you may be familiar with. The petition is directed to this body and to the Town Council. As I said, it went on line last night, in less than twenty-four hours, this petition had more than 250 signatures. The petition reads, Cedar Mountain is Newington's last large piece of open undeveloped land. It's natural resources are far too valuable to the community to be ravaged by development. We want the elected and the appointed officials of Newington to stop any and all development on Cedar Mountain. Now this came about because we received word from the court that a settlement meeting on the Toll Brothers suit is in the offing. The scuttlebutt on the street is that there is political pressure on the town's legal representatives to reach a compromise. You worked long, hard and fairly on this decision. Please don't be bulldozed. And for the record, I'm going to hand over to Mr. Greenlaw the petition as it was as of 5:30 this evening, which had about then 236 signature. The final version will be presented to the Town Council at it's meeting next week. Thank you.

Raymond Harlow, Edmund Street: As former chairman myself of this body, I would like to remind some of the new members that this body does not work for the town. This is an arm of DEEP, this is a state organization that has lawful rights to impose fines, to enforce and impose fines on anyone that is doing any kind of degradation to wetlands or overlooking wetlands laws and that, \$1,000.00 per day can be levied by this body for people who are not in compliance with the wetlands laws in this town. Having said that, I'd also like to reiterate what Roy was saying about Cedar Mountain. We worked hard on that for a long time and I would hope that every new person on this body is well studied on all aspects of this and has read the minutes and the testimony and is well versed to make any kind of decision, and before that decision is made, we will use that petition to ask for a public hearing before any final decision is made, and it's in the statutes that we can do that. So, it's good to see the Commissioners that I haven't seen in a long time, but that's all I have. Thank you very much.

John Bachand, 56 Maple Hill Avenue: I have a couple of things, but primarily I'm going to go with what Roy has said also, there's another issue dealing with the dumping in the Mill Pond wetlands. I think that could be put on the back burner for now, but it's still important. You made a decision, you went through the process, it was hours and hours, days and nights of deliberation on that process, to have your decision bargained away behind closed doors, it just doesn't seem fair to me, it just doesn't seem right, it doesn't seem like the proper process. We're a mature town, I would just say in any difficult decision making the first weighing of the facts, pros and cons, but sometimes when it's a real difficult decision, you just have to trust your intuition or your conscience, so I guess that's what I'm asking for here if it really does come down to that because that whole debate was never settled about the Old Cedar Mountain threat to wetlands, so you did the best you could. Now regarding the dumping in Mill Pond, I think some of you might have seen the video that I made. It was unfortunate.....

Chairman Block: That's an agenda item.

John Bachand: What's on the agenda?

Chairman Block: The tennis courts.

John Bachand: I'm talking about wetlands and Mill Pond Park. In my video there was material dumped in the wetlands.

Chairman Block: That is an agenda item.

Commissioner Ancona: I'd like to say for the record that I disagree, whether it's an agenda item or not I believe that his first amendment right is protected during public participation, he's free to comment on anything.

Attorney Boorman: Actually, that's incorrect on the basis of the rules of this Commission.

John Bachand: I'd say TPZ has already heard this....

Attorney Boorman: That's an incorrect analysis and I would indicate to the Commission that that is not to be followed.

Commissioner Clark: I have a question. In Communications and Reports, Item eight, Mill Pond Tennis Courts, how does he know what the topic is? We sort of know what we are going to talk about, but we've asked repeatedly that agenda items be fleshed out more thoroughly so people know and when those requests are denied, right now, how do they know what we are going to be talking about?

Chairman Block: Well let me just say the concern over the agenda notations, has not been denied, it's in process. The activities of this Commission have filled the available staff facilities so we haven't been able to get to it yet, but they haven't been denied. In fact, they are embraced, but a question of how soon we can get it going. As to this issue, the question is not the description, but it is the information that we are going to have to consider, and the important aspect to the members of the Commission is that we do not hear something prematurely that can be used to assert that we have made a pre-judgment on this issue before it is formally before us. I don't want to jeopardize anybody's ability to consider and vote on that item when it comes up on the agenda, that's why the limitation says, non-agenda items, and if the description leads to some confusion, it's up to myself and staff to clarify it at the earliest possible time, which is what we are doing.

Commissioner Clark: Then I'm going to recommend that you change where it says, A. Mill Pond Tennis Courts to something that describes what we are going to be talking about under Communications and Reports.

Chairman Block: We will take that under advisement in drafting the next agenda and thereafter. I'm hoping that we're going to implement the opportunity to put something on the agenda, to put a short narrative statement underneath it, which will be what the applicant is asking us to consider.

Commissioner Clark: So is that going to be happening tonight?

Chairman Block: I don't believe so.

Commissioner Clark: So then why did it say Mill Pond Park dash Tennis Courts?
I don't understand why, I'm completely confused.

Chairman Block: Okay, I was talking about the change in the layout of the agenda but as far as the discussion tonight, it's my understanding and please if I am wrong on that, but the item we are being asked to consider is the question as to some activity that occurred at the tennis courts which affected some upland review area and which.....

John Bachand: It wasn't just the upland review.....

Attorney Boorman: Sir, you are out of order.

John Bachand: Just correcting the Commissioner.....

Attorney Boorman: You're not entitled to correct anyone sir.

John Bachand: I don't know about that.

Attorney Boorman: If you can't stay quiet, you're going to be out of control.

John Bachand: What's going to happen?

Chairman Block: But again, we are talking about it, and as I said, I don't want to jeopardize this Commission or the members ability to act on the agenda items.

Commissioner Zelek: Mr. Chair, Attorney Boorman is here for the executive session, I object to him being sitting at this table and interjecting.

Chairman Block: Well, he's here to assist us, and quite frankly again, the confusion that is being discussed at this moment is part of the reasons why I believe his presence is well worth while. So again, you have some time remaining.....

John Bachand: There is always the hypothetical round that I could go into and discuss whatever I want I believe.

Commissioner Ancona: Mr. Chairman, I just want to say for the record, I believe we are stifling free speech here tonight, and if we would just give this person, this man two minutes and everybody else who wants two minutes to speak about whatever they want to speak about which is protected under the First Amendment of the United States Constitution, we wouldn't be having this debate, so I say, let him have the two minutes and let's move on.

Chairman Block: Thank you, I appreciate your opinion, but I am going to abide by the procedures of this Commission and I would ask you to speak on non-agenda items.

Commissioner Clark: I'm still going to ask, how does this gentleman know that that is an agenda item?

Commissioner Paskevich: Because he has been speaking to it.

Chairman Block: And he's been informed.

Commissioner Clark: I believe that's for the Chairman to say, not you to correct.

Chairman Block: Members please, let us proceed. We have a lot of things that you want to reach before the counsel appears and I really don't want to waste that time that we have available.

John Bachand: Yes, regarding this speaking to agenda items, TPZ has already visited this, the agenda as you interpret it is a piece of paper that has everything written on it. The spirit of the law as I understand it is to not prejudice closed applications where comments on it could prejudice your decision making, so even TPZ is visiting this exact issue and realizing that, as a matter of fact I sent a letter to you under Communications, and I wasn't even allowed to speak to my own letter because you said it was on the agenda, so.....it's just on a piece of paper, but as I said, there is always the hypothetical round which I will go into now. Hypothetically, if someone dumped something into the wetland, and then went in and cleaned it out, I would hope that they very carefully inventoried that material, classified the material, isolated the material, and that would be part of a responsible clean-up of it, so I would also like to know who made the decision to do that work in a very haphazard way, without any time for evaluation what-so-ever. So back to my original point, I just want to support you for everything you have done. Thank you.

Gary Bolles, 28 Burdon Lane, Newington: Speaking about wetlands in general, you all know that I had wetlands filled in across the street from my home years ago and the Town of Newington participated in it. That's why they were enjoined in the federal lawsuit that was instigated by the Army Corps of Engineers. Now speaking about wetlands in general, if a town entity fills in wetlands then they have to be held accountable. Let's say it was the Parks and Rec Department, the Parks and Rec employees are some of the hardest working employees and the least recognized in this town, but their boss has to oversee that. Now if he failed to do that, then he also needs to be called on the carpet. It seems that some of these higher ups are just, their breezing over it, and the employees are getting blamed. Blame the supervisors, or the Superintendent of Parks and Rec. Thank you.

Gail Budrejko, 21 Isabel Terrace: I want to speak about concerns about Cedar Mountain and the scuttlebutt about a negotiated settlement. The original reasons why this body made their decision haven't changed, and if you believe that your decisions were right, please stand firm. I know you won't succumb to pressures from other town officials, and I would hope that the vote on the town hall renovation project showed that citizens in this town want to preserve and protect open space and hopefully that results of that would bolster your resolve if you are getting any pressure from any individuals to withdraw opposition. I know this body, unlike the Town Council is well versed in the 2020 Plan and you will uphold the principles that are stated in the 2020 Plan regarding open space, Cedar Mountain open space in particular. A negotiated settlement to avoid litigation or legal fees or pushing another agenda I don't think is a good enough reason to withdraw any opposition to the Toll Brother project for a negotiated settlement. Thank you.

Rose Lyons, 46 Elton Drive: As to the agenda items, this is not something new that has been brought before this Commission. I think I must have been here for the last six or seven years asking if there might be a little bit more information regarding what these applications are all about, and I think the initial response was, we don't have a scanner, or something like that. Well, the Town Manager's office sends out notifications to the citizens with everything attached to the e-mails as to what is happening at the Town Council meeting. The TPZ has been very good about that as well. If our engineering department doesn't have the staff or the equipment to put more information on these agenda's, I would hope that in the next budget session you ask for it, or some sort of brief description be given so that the public will know what is happening. I think you have seen in the last couple of weeks what happens when the public isn't informed, and I want to thank the Commissioners on this Commission

for trying to get that done. I don't know what the problem is, but there seems to be a problem. As for the public hearings, I asked last week, if you can't speak on an agenda unless it's a public hearing, how do you go about requesting a public hearing. I went to Section 9, Public Hearings in your internal rules and regulations and I sent an e-mail to the Town Engineer and he referred me back to those regulations. I read them, and I have a question, and I know there is no dialogue, but I will just read this, this is the Public Hearing, 9.1: The Inland Wetlands Agency shall not hold a public hearing on an application unless, 1. The Inland Wetlands Agency determines that the proposed activity has a significant impact on wetlands or watercourses. 2. A petition signed by at least twenty-five persons who are at least eighteen years of age or older and reside in the town of Newington requesting a hearing is filed with the Agency not later than fourteen days after the date of receipt of such application. That's where my question lies, as to when the fourteen days starts, is it the day that the Engineer's office receives the application, is it the day that it appears on the agenda, I'm a little bit confused. I see on the last several agendas there has been Community Liter Pick-ups, and new initiatives on the Vernal Pools, and I find that all fine and good except for the fact that I believe a lot of our water courses are being ignored, and I'd like to see some people look at the Piper Brook area, the Mill Brook area, the retention and detention ponds, and I've heard, and it's not in regard to this particular subject matter tonight, but another subject matter, that town employees are giving permission to residents to clean up areas, and then the residents are having problems with other residents as to why they are doing that. I would hope that there is some sort of communication between Parks and Rec if this in fact is true, that they do not have the right to give people permission to go into the wetlands to clean up or to do anything else. With that, thank you very much.

Sheila Solari, 27 Pebble Court: I think I'm here, one of the reasons that I'm here is to get some information about how a resident can, if we have a concern about what we think is a possible wetlands setback regulation issue, what do we do about it. I have a concern about Tress Manufacturing, which I brought up to the Town, and they told me it was a state matter, so I called the State and they told me to go back to the Town, so I would like to know what I should do to make my concerns known to the right people. I have some photographs. Tress Manufacturing, this was told to me by a Town Official bought up a piece of property that acted like a buffer between Tress and the residential community that I live in. So, after they bought that parcel they extended their area of operation right up to our property line, so I have some photos of what I think might be a setback regulation issue, and I'm wondering if, how do we enforce the setback regulations? Does the Town check on some of these companies to make sure they are compliant? Thank you.

Allison Clark, 25 Wilbur Drive: Long awaited, or long overdue thank you to the whole Town of Newington after the past week, I think it's very important to note that the Town came together. I'm totally amazed at, after having been through the whole Cedar Mountain project and we dwindled from maybe 300 people down to about eight, during the final stages, but how because of the amazing social media, that whole group went from, thanks to Roy putting up a Facebook page, went crazy and the whole town just got involved. That said, I just want to remind you that we are not just eight people any more, watching you, there's a whole town, and everybody is talking, so just bear that in mind. Hopefully in your negotiations tonight that while there were only eight of us or ten of us at the end of the day on Cedar Mountain, but there's a whole lot of people now who really care about this town, and want to make it special and hopefully it will be that way. Thank you.

IV. ACCEPTANCE OF MINUTES

A. Regular Meeting of August 19, 2014

Commissioner Clark: On page four, at the bottom of the page it identifies the speaker as John, and I believe that was John Bachand, and every place that John Bachand's last name should appear where he was speaking, his last name was not included.

Commissioner Igielski: On page 24, prior to the words Executive Session, there was a motion that was made to go into Executive Session, there was a second, and after the session was completed the Commission returned to regular business.

Commissioner Casasanta: I have something minor. Starting on page one, my name has been mis-spelled. There is an extra s in it. Should be Casa, the beginning of the lat name. Isn't the first time it has happened, I thought it was just a typo, so I didn't bring it up the last time, but since it has occurred again, I thought I would bring it up.

Commissioner Krawiec: On page 17 it states, Commissioner Krawiec, yes I have been approached by the Chairman of the Environmental Quality Commission along with Commissioner Clark it should be to put together another liter pick-up event some time in October.

Commissioner Igielski moved to accept the minutes as corrected. The motion was seconded by Commissioner Clark. The vote was unanimously in favor of the motion, with seven voting YEA.

V. PUBLIC HEARING

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

Chairman Block: Chris, do we have anything on the Inland Wetlands Regulation Changes, L.I.D?

Chris Greenlaw: Nothing, and at this time I request that the Commission carry over the public hearing.

Commissioner Zelek: Point of order, before moving on, we should engage the public if there are any public comments, since this is a public hearing.

Chairman Block: We are not opening it up.

Commissioner Zelek: It's already open Mr. Chairman.

Chairman Block: That's right. Are there any comments from the public? How can we have comments and then not close it in the time required?

Chris Greenlaw: Point of order, we're keeping it open so the public can certainly speak on that as we venture forth, gain their comments, comments from Council, TPZ, any entity. We're asking to keep it open and bring it forward.

Chairman Block: Anybody wishing to speak on that, L.I.D techniques?

Audience: Can you explain briefly what this is?

Chris Greenlaw: L.I.D. is basically the attenuation, the holding of water, the cleaning of water, and the restoring of ground water. These are methods and techniques that only a handful of towns have incorporated into their regulations. Currently we have those regulations that have been amended through TP & Z and which I look at through my office when site plans come in, and we're looking to incorporate that language now into the embodiment of the regulations for Inland Wetlands and those changes have been given to the Commissioners and are garnering comments.

Chairman Block: And we are only delayed by the press of other business of getting at it. So with that, can I have a motion to table please?

Commissioner Sadiil: Motion to keep the public hearing on Inland Wetlands Regulation changes open to the next meeting.

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

VI. NEW BUSINESS

A. Application 2014-11A, 100 Milk Lane, Map Amendment

Gregory Hunt, Buck & Buck, LLC: I'm here representing Secudo Dairy Foods, USA. They are seeking a wetlands map amendment for the town wetlands map to help ease future projects that may come along. Upon reviewing the town wetlands map the areas that were called wetlands extend over their buildings and into some of their parking lot. It didn't seem like that was correct, so they hired an environmental planning service to field locate the limits of the wetlands and we have those wetlands flags located and those are represented by the numbers on the map that was included in the application. This is the same map, just colorized so hopefully you can easily see from a distance. The red lines represent what the town's wetlands map is, that's the solid line, the dashed red line is the current upland review area, the lighter green line is where the field located wetlands limit is, and I just shaded in the wetlands files as a green color as well.

Commissioner Igielski: Mr. Chairman, just to remind you, our regulations require a public hearing be held for all map amendments and anything said here tonight should not be used by the Commissioners unless it is repeated during the public hearing because it is information determined by the public hearing that can be used.

Chairman Block: Absolutely.

Gregory Hunt: That's my understanding, I was just trying to give an overview.

Chris Greenlaw: To the secretary, through the Chair, this was discussed with a professional, but we just wanted to set up the application for the Commissioners and then after three or four minutes of the site orientation request that the Commission schedule a public hearing.

Gregory Hunt: I've really said everything that I have to say.

Chairman Block: What is the proposed date for a public hearing?

Chris Greenlaw: It would be the next regularly scheduled meeting which I believe is October 21st. Additionally Mr. Chair, I believe your soil scientist will be here?

Gregory Hunt: Yes, he will be here.

Commissioner Igielski moved that per Section 15.7 of the Inland Wetlands Watercourses Regulations of the Town of Newington that the Commission will hold a public hearing on Application 2014-11A, Proposed Map Amendment to establish limits determined by soil scientist in the field on October 21, 2014 at 7:00 p.m. in Conference Room L101 Town Hall.

The motion was seconded by Commissioner Zelek.

Chairman Block: Any discussion?

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

VII. OLD BUSINESS

A. Application 2014-10, 16 Birch Street

Alan Bongiovanni: Good evening Mr. Chairman, Members of the Commission, Staff, for the record my name is Alan Bongiovanni representing Mr. Lenares in this application before you, property known as 16 Birch Street here in Newington. If you recall we made a presentation. I'd like to basically go over that presentation again. We're asking for site plan approval to work in the regulated area. A vacant lot, on the north side of Birch Street bounded by an existing house to the west, an existing house to the east, and the driving range for the Indian Hill Country Club to the north. There are no wetlands on the subject property, though the town map shows the property line dividing this parcel from the Town of Newington as being the edge of Inland Wetlands, therefore the property is bisected by the hundred foot regulated area. We believe this application would have no detrimental affect on any wetlands, or watercourses in the Town of Newington, we've designed the site such that we have incorporated L.I.D. techniques to the rear of the property so it will attenuate any increased runoff from the proposed development on the site in this corner. Part of that development, a single family home, would of course encompass the standard sediment control measures, silt fence and the like to protect any areas from any run-off during the construction of this site. I have received some comments from staff that I consider of a technical nature. They have not been incorporated in the plan, we just received them this afternoon. But I am fully agreeable to everything that Mr. Greenlaw has presented to us, again, they are basically technical in nature, talking about where the silt fence is to go, mentions details on the berm, plantings and things like that which as the town is developing, working with these new L.I.D regulations, it's kind of fluid, so we rely heavily on what the town can expect. The comments, we will incorporate all of those, assuming this is successful. If you have any questions I'd be happy to answer them, I think it's a basic application, I probably talked a little more than I should have at the last meeting, but this is what we have, and I hope you see to approve it. Thank you.

Commissioner Zelek: Mr. Bongiovanni, in any of the prior applications for Birch Street, the detention area you had proposed a conservation mix, is something similar on the application for this one?

Alan Bongiovanni: These actually would be good planted with various grasses, sedges and things like that, not so much the conservation mix.

Chris Greenwell: If I can interject, I want to make sure the Commission understands that is a different site, and it brings with it different topography situations so where as that site, it lent itself to having relief to topography going off, this has a berm, so this is what we spend a lot

of time with, and I want to make sure that you're not conceding the plantings inside this area, that's why I've asked for plantings outside the area and it's generated on topography, that's why it's you have the filter berm, but I like you to distinguish between the difference, why we didn't do it here.

Alan Bongiovanni: What happens is, and if you look at the elevations on the site, it's almost flat. We actually have to raise the center of the lot to accommodate some grade to runoff. You know, you're going to be 128 at the corners of the house, 127 in this area just up hill of the proposed detention area and then you are just about 126 on the other side. There's not a lot of elevation change. We are proposing to create this berm so it actually will impound the storm water as it runs off from the roof on the grassed area so Mr. Greenlaw and I discussed on the berm we could have some plantings and it may be more appropriate, again with some guidance from staff, to use some of the sedges and things like that in this area they work a little bit better in some instances to uptake nutrients, some of the fertilizer and things that are used on the lawn, so again, whatever that plan of planting is, of course we would be one hundred percent in compliance with what the town staff would recommend.

Chairman Block: Okay, thank you. Any questions from the Commissioners?

Commissioner Igielski: I have a question for Mr. Greenlaw. Are all these proposed changes and enhancements that you have spoken to Mr. Bongiovanni about something that should be covered under conditions, or under revised drawings such that we should not act on this this evening.

Chris Greenlaw: We concentrated on the L.I.D. techniques and the way this site works, the grading lends itself, maybe you could explain this, but if you don't mind, the grading lends itself so that this retention area and the biofilter with the berm is acting almost like it's stopping that TSS, it's stopping the migration, so it's acting as a filter, but to protect that, obviously the investment is in building this berm, you still want to protect that, so I asked him later to also include outside the disturbed areas, to put up another row of silt fence not to compromise the drainage.

Chairman Block: Chris is there anything that should delay consideration of this application at this time?

Chris Greenlaw: Anything additional, as far as the technical detail or a detail for an additional silt fence or a change, that's something that we could certainly, as we have in the past, add a condition if we wanted to, if there was any uncertainty by the Commission that an additional comment or condition could be that the consultant, the applicant's consultant satisfies the Town Engineer's technical details and illustrates them on the mylar for them.

Commissioner Clark: I have a question, and I want to see if I remember what you told us the last time. This property is in between two other already developed long standing properties, is that correct?

Alan Bongiovanni: Yes it is.

Commissioner Clark: When, and those properties have been, do not have any of these new fangled....

Alan Bongiovanni: L.I.D. properties?

Commissioner Clark: Correct. When you are setting up yours, does everything flow directly and stay within your property lines or are there issues with flow to the east/west or north/south into areas that do not have the benefit of these techniques?

Alan Bongiovanni: The property to the east basically drains south to Birch Street and then north to the driving range, the country club property. The berm that exists there stops at our corners, so there is nothing to stop that flow. It doesn't go onto our property, drains north and south and does not affect our property. The grading on the existing house which really fronts on Maple Hill Avenue basically sheds off in four directions. We do have a little bit of their watershed area that comes into our property, it will in essence receive some benefit but it's designed to accommodate that kind of flow, but it's not really designed to relieve that property of anything that may be there.

Chris Greenlaw: That's an excellent question Mr. Chair, if I may add, the zoning regulations only restrict commercial buildings to have roof leaders, but in this case, through L.I.D. we've taken some of that channelized flow and as the consultant you might want to show that you have added roof leaders, you've directed that to that berm area to have it go through the filter berm and then go back into it's natural state of a sheet like flow from the property, so this is where these L.I.D. techniques and methodologies augment zoning and get you a much improved site plan in this case, and that's an excellent question.

Chairman Block: Let me also ask you, obviously by putting the drainage into that corner the issue is whether or not you are going to affect the adjacent property. I know you are not supposed to do it as a concentrated flow, i.e. a pipe, so the functionality of your detention area, how is that going to distribute the water onto both the country club and the.....

Alan Bongiovanni: Our elevations along this area are basically the same elevations, so any water that gets concentrated say on the roof is brought via a pipe to the front, south part of this detention area, will go through that area and will disperse via this berm as a level spreader. So we are concentrating in the beginning that we are going to disperse it so that the drainage pattern after it leaves the property should be very similar to the way it is today.

Commissioner Zelek: For the public's benefit Chris, all the good work that you have been doing, with low impact development, perhaps you can educate the public a little bit using this as a practical example of what you are trying to accomplish.

Chris Greenlaw: Our consultant as well, being the author of this plan, but these are some of the things, Commissioner Clark brings up an excellent example of traditionally in many other towns, if not predominately all, you would see a traditional house of this nature, and they would have concentrated flows, and as you know, in Newington, that has plagued us, whether it's zoning or engineer, we don't have the best soil throughout town. We have high density, we have water, we have systems, drainage systems that are overtaxed, and now through these L.I.D. efforts, that's what we are trying to do. A member of the public asked, what are we doing through these L.I.D. efforts and there are really three things to remember through these techniques and methodologies, holding that water, attenuate the water, we want to cleanse that water, we want to filter that water, and best case scenario, not many, we are going to try for ground water recharge. In many cases that won't happen, given the type of soils that we have in town, but we can augment that if the topography allows us, if we have a steep slope we can do something with a bio-retention and have that filter type of material at the base of these, so there are many different types of techniques, we are definitely surfing the curve, we're one of a handful of towns but this is a demonstration of where we are going with some of those L.I.D. techniques.

Chairman Block: If I can add to that, it's basically techniques designed to keep the water that falls on the property on the water rather than shedding it directly onto adjacent properties or into public storm sewers. That recharges the water table, and does a lot of other beneficial things, rather than having the water become a nuisance to adjacent properties, or problems to the town.

Commissioner Sadil: What is the maintenance of this, what is required?

Alan Bongiovanni: This is going to be an integral part of the rear yard. There will be some type of grass plantings in there so there will be some, it's not a wetland area, so we're not going to look at it as maybe some other projects where it's significantly close to a wetland that's going to require certain things. If the property owner wants to mow it to a height of six inches every week when he cuts his grass, you'd be able to do that. There will be some plantings on the top of the berm like ornamental grasses and things like that, which will grow like a hedge and in the winter they will die and grow back next year, but it will be significantly different than most of the lawn areas.

Commissioner Ancona: You said last time this is basically a zero impact application. Are you still of that opinion?

Alan Bongiovanni: Yes I am.

Chairman Block: Is the application finished?

Alan Bongiovanni: Yes.

Chairman Block: Are we prepared to vote on this?

Commissioner Igielski: The time table allows us to act on this application at this time.

Chairman Block: Are there any conditions prepared?

Chris Greenlaw: There are, but I believe for consideration of this Commission there may be an additional, many times in good faith there are some lingering details that engineering requests through our comments, written comments to the consultant that we get on the mylar. If this Commission feels more comfortable with the fact that we're going to specify in writing which we have done, that we want to have the applicant's consultant provide, satisfy the remaining comments of the Town Engineer and provide those illustratively on the final mylar, we could certainly add that as a condition.

Commissioner Zelek: My only concern would be if the property was transferred with those conditions that are not really named to the petition, somewhere appear within a property transaction.

Chris Greenlaw: Mr. Chair, I want to remind all Commissioners as part of our, we have twelve standard comments, and as one of them says that permits are not transferable without the prior written consent of the agency.

Chairman Block: That's the permit of what is being accomplished. I think what Jeff is talking about is, on the deed to the property should be an obligation to maintain it.

Commissioner Zelek: I don't want to say that that is what I was alluding to. I don't know what Chris and Mr. Bongiovanni agreed to, so actually I'd comment on that, but if there were

anything that you feel is significant and if there is any issue with the transferring, if this property sold after this application is approved.....

Alan Bongiovanni: Mr. Chair, we would be very happy with the condition that we've addressed the Town Engineer's comments prior to the Chairman's signing.

Chairman Block: I think that is the easier way.

Chris Greenlaw: Just to answer the Commissioner, those were technical, revise the berm detail, add annotation as to the seeding areas, things like that that are very generic. We really focused our attention on the attenuation of the water and the detail of the berm and that's why, I don't want to say esoteric, but I'm very confident but certainly we can add that condition.

Chairman Block: That the final drawing, the as built drawing will be reviewed and corrected by the Town Engineer.

Alan Bongiovanni: We'd be very happy with the applicant's engineer address the Town Engineer's comments prior to the Chairman signing it.

Chairman Block: We have been handed proposed conditions for application 2014-10 at 15 Birch Street.

Commissioner Igielski: Mr. Chairman, I would just like to ask why this application is going in a process that is different than many other applications.

Chairman Block: I asked if we were ready to proceed, I got the impression you said yes.

Commissioner Igielski: At this point since you asked Mr. Greenlaw if the application was complete and his response was yes, I would like to make a motion that based on the evidence before it, the Commission made a finding of fact that a public hearing is not necessary for Application 2014-10 because the activities will not have a major impact or a significant effect on the regulated areas.

The motion was seconded by Commissioner Casasanta.

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

Commissioner Igielski: At this time in accordance with past practice it would be the Chair's request of the Town Engineer to list the suggested conditions that he has prepared to be passed out. I would like someone to write down the wording that is being proposed and I will get a list of suggested conditions. At this time, should we take a short recess so we will be able to accommodate this?

The Commission recessed at 8:00 p.m.

The session was called back to order at 8:08 p.m. by Chairman Block.

Commissioner Igielski: At this time I would like to make a motion that the Commission issue a permit by summary ruling for Application 2014-10 and subject to the following conditions: 1,2,3,4,5,6,7,8,9,10,11,12, 13 and subject to the following conditional conditions, A. on completion of the project the applicant shall contact the office of the Town Engineer to

schedule an inspection to verify that work has been done in accordance with the approved plan. Erosion and sedimentation controls will remain in place until grading and seeding has commenced and established, B, the permit is valid for wetlands only. Additional approval/comments may be required from other town departments. It is the responsibility of the applicant to verify whether their approvals/permits may be required for this project; C. the applicant consultant will satisfy the Town Engineer's remaining technical comments and incorporate the necessary changes on the final mylar.

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

Chairman Block entertained a motion to go into Executive Session at 8:10 p.m., so moved by Commission Casasanta. The motion was seconded by Commissioner Igielski. The vote was unanimously in favor of the motion, with seven voting YEA.

The Commission returned to regular session at 9:37 p.m.

Chairman Block: In resuming the regular agenda, I'd like to request that we go to Item 10C, the procedures for this body to meet as the Conservation Commission so that we can get input from the Town Attorney and then let him go. Is that agreeable to all?

A. Town Charter C-607 Conservation/Inland Wetlands Commission

Chairman Block: It was requested that we devise procedures by which we could separate our activities as the Wetlands Commission from those of the Conservation Commission so that we would have clear boundaries and that our actions would actually be appropriate under the statutes. In general what I had suggested was that at some point in time that a member of the Commission or public could make a request for an item to be put on the agenda under the Conservation Commission, and in those cases a subset of our agenda would be created for that. We would vote to go out of session in the same pattern that we do for executive session and to sit as the Conservation Commission and then that person would make a presentation to us, the Commission would vote on whether or not to proceed with the request, whatever it might be, and the Commissioner would be appointed to investigate, come back with some recommendations, if and when we did, we would hear it, and then decide whether or not to accept it or modify it, and then, and this is where we are departing perhaps from normal, I would suggest then that that member, or any other member would make the presentation to whatever agency or the Town Council would be hearing the issue, on behalf of the entire Commission. That's the general outline. Again, is the, how does that set with you.

Commissioner Paskevich: Would this all be conducted in one meeting?

Chairman Block: Well, we would proceed along that path as best we could, and then continue it until we came to a resolution.

Attorney Boorman: Let me cut in, I had a discussion with both staff the Chairman about this issue, so in essence what I would recommend that you do is, you continue your agenda as you have your agenda and just add to that, if you want to put it at the beginning or the end, your Conservation Commission hat, for issues that are associated with that. You don't need to take any formal vote when you move from one to the next because it is all one Commission, you are just doing a different function, so on the agenda that will delineate when you are moving from one to the next, and I can work with Chris to come up with something to recommend to you as to how that agenda would look. So, if you had a particular matter at

one meeting where there was a conservation commission issue, that you wanted on the agenda you put it on, at the next meeting, you didn't have anything, it's not going on, so it would have the least amount of change from what you do right now and provide you the flexibility to do what I think you are asking to do, so I just make that recommendation for how you deal with it on the agenda and then proceed accordingly. I'll answer any questions that you might have.

Commissioner Zelek: Do we really have to do anything at all? Since when we have applications or perform (inaudible) or map amendments we are operating as the Wetlands Commission. We are titled for the Conservation Commission for anything else.....

Attorney Boorman: Well, this Commission has gone beyond what most Commissions do in the state, you have added issues along the lines of Community Litter Pick-up, and new initiatives and basic plants, and that clearly in my mind puts you in the Conservation mode also. What I understood was that there was some concern and you wanted to be able to delineate between, but if you don't feel that need to do that, you don't have to do that. If you want structure, you can give yourself structure, you don't want that kind of structure, that's fine. I think tonight's agenda is fine, if you want to talk about basic plants or something, I don't want you to have to be more formal, I don't want to tax you to making things difficult, I think we should make things straight forward as you proceed so whatever works, really, you have great latitude.

Chairman Block: I don't disagree with any of that, but my concern when I tried to compose something that had clear boundaries is that I don't want there to be confusion in the Commissioner's minds as to when you are acting under the restrictions or the proceedings of the wetlands statutes as against those of the conservation, and I also don't want any greater opportunity for confusion in the minds of the town or public. When we ask something be accomplished which statute we're relying on because all that does is allow for somebody in confusion or intent to say, you are exceeding your authority, so that's why I was proposing clear boundaries, but again, it's what your pleasure is.

Commissioner Zelek: If I may, I think that the way that we operate is just fine. We seem to have checks and balances, between the Chair and staff that help us whether we are speaking about a conservation issue or a wetland issue, so I think the way that we operate is just fine.

Commissioner Clark: Mr. Chair, can you give us an example of a situation that caused confusion?

Chairman Block: That did cause confusion?

Commissioner Clark: Or could cause confusion.

Chris Greenlaw: Mr. Chair, there is one that comes to mind, there's actually a couple. Moving forward, some of the ideas that we had, we were actually looking at, at the end of Old Business, put on our Inland Wetland hat and we look at those, for instance, a site plan this evening as mitigating that TSS that might get into a wetland, or thinking on a certain side of our brains. Now after Old Business if we put those items on that we are going to act as a Conservation Commission I think when it's presented by a Commissioner is that the end game was that, if you had a consensus and you thought this was important, for example, open space, open space whatever it is, whether it's a proposed development or use or whatever, and this is something that doesn't fall in front of you because there is no wetlands. Let's say they want to put up, I don't want to say building, they want to do something with a

use in open space, and there were no wetlands. You could meet as Wetlands, after Old Business you could put that on there, and then you could have a consensus, you could discuss it, you could bring in information, you could have a sub-committee or appoint somebody to say, hey, I would like to put together a report, this is important enough to represent now, and we would like to be an advisory, where as Wetlands we are voting on applications, here as Conservation, we have a consensus and then we can produce a report. Appoint someone to co-author, come back, read it to the Commissioners, changes, modifications, kind of, okay, let's go forward with this, whether it's Council, TPZ, EQZ, so on and so forth. But it kind of differentiates the thinking within one meeting, we do our Inland Wetlands, then we come with Conservation, we meet, we talk about things above and beyond the purview of that, different scope, perhaps if you want to take it as a report, to that Council, to that Commission. That's kind of the structure that we are hammering out right now.

Commissioner Krawiec: It makes sense to me, it kind of provides us with an opportunity to look at an application and to give in put and advice.

Chris Greenlaw: If it normally doesn't fall under an application, normally you don't comment on it which I think is important.

Chairman Block: What happens is that you would act on a Wetlands application, we would vote, we would be done, we would separate that and convene as the Conservation Commission and then come up with a body of recommendations, perhaps to zoning and the applicant about things that really were beyond the Wetlands permit itself.

Commissioner Zelek: Mr. Chair, I'd just like to get the consensus from the Commission and move on, whether or not we continue to operate as we have been, which I think the Attorney was fairly comfortable with, or do we further entertain some procedures as the Chair suggested.

Chairman Block: Again, you have seen the confusion and the arguments that our wetlands decisions have come up with, I really would propose that we don't really need to engage in activities as the Conservation Commission that invite in any way, shape or form being raised as arguments against our actions as a wetlands commission. That's my concern, and whether or not it's going to happen tomorrow or when some other Commission is sitting, five years down the road, the procedures we set up now are going to contain whatever problems they might have.

An application coming before us will come as a wetlands, because that is the procedure that we have. If the public, or Commissioner has an issue within that application, or any other subject that he feels deserves attention as a conservation matter, then that should be brought up separately from our deliberations as a wetlands agency.

Commissioner Igielski: If I understand you correctly, wouldn't that raise some problems? If we're looking at some development strictly as a wetlands issue, now we are bringing in something as conservation for the same application, but separating it out, how can we.....

Attorney Boorman: Let me address that. You really can't do that. There are two separate sets of statutes for each one, you happen to be the body that enforces both sets of statutes. The Conservation Commission can only make suggestions. They don't take any application for anything, they can study matters and determine whether you as a body, and you all have to agree with it, by the way, one of you can't run around and say, I'm acting for the Conservation Commission and we want you to do this, you have to agree with it. In terms of that, it would be a recommendation to TPZ, a recommendation to Town Council and the

report that Chris is talking about would be a summary of what your recommendation would be. I don't think you would find very often that any application, an application that comes from permitted activity here would jump over to the Conservation Commission, that's what I hear you saying, that would be highly unlikely and there would be no requirement for the Inland Wetlands to stick around for the Conservation because the Conservation can't do anything except make a recommendation to another body.

Commissioner Casasanta: I was just more concerned about us contradicting ourselves that we, as an Inland Wetlands Commission approve a development and then turn around and discuss it as a Conservation issue and then speak negatively on it. That could potentially be contradictory.

Chairman Block: Let me give you an example that we had to deal with. Down at Sam's Club, there was a proposal that came before this Commission to build a storm water detention basin as an underground storage area. We dealt with it. As a Conservation Commission matter I would have thought it would have been very nice if we could have made recommendations to Planning and Zoning that that area, because it's right adjacent to a recreational open space area, be rather than dealt with this underground storm water storage be naturalized into a semi-recreational area. At the time, we didn't have a vehicle to do so without jeopardizing the decision under the wetlands provision. If we had the procedures set forth, to separate the two, we could have had our approval for what they came to us for, because we had no reason to stop it, and we could have had a recommendation that there was a better way of dealing with retention.

Chris Greenlaw: Let's think a little simpler. Let's say no application comes before you on a development. Now you all as a Conservation Commission, this statute speaks to open space and greenways. Now you are all cognizant of where the greenway is and where you would like to see trails and where open space is, so let's say an application, even if it's smaller, but it's part of that contiguous greenway connectivity, and let's say it goes before TPZ but there's no wetlands, you as a Commission could entertain that, have a consensus and say, I would like to go before TPZ. TPZ, they're going to look at the zoning regs, they're going to look at the building regs, the setback regs, the engineer is going to look at drainage, we would like to go before them and offer advisory, has any one thought about, at the end of the day, open space that you have on your property and perhaps whether you create a trail or think about donating that part of your property to the town for connectivity for open space. It gives you a voice, it gives you a voice where you wouldn't have had it as Wetlands, but you could have it as Conservation.

Attorney Boorman: It's much more likely in a scenario like that, the two don't really link together, so I agree with you, if you had an application that somehow that's jumping over to Conservation I think you better be thinking twice about what you are doing because I think it's not so much the role of Conservation Commission to entangle that, it's more to advise. I just want to point out for those of you who have been around since October of 2012 I guess it was, I did a seminar, and we included a bunch of Inland Wetlands materials, and we also did Conservation Commission. I'm going to send that over to Chris again and ask him just to send it out to you. The very last page is a summary of Conservation Commission issues and statutory stuff so that might be helpful, especially for the newer people. It also has an Inland Wetland section on it too to take a look at.

Commissioner Igielski: What do the state statutes say in regards to a Wetlands Commission and a Conservation Commission being separate and distinct Commissions and not acting at the exact same time and each having to have separate agendas.

Attorney Boorman: The statutes allow them to be combined. I think the last time I looked there was just less than a hundred municipalities that combined them. Under our charter, we are what we are, so unless there is a charter revision that's not going to change so you are able to do both, and again, the simplest way to do that is to operate, if you want an agenda that is more specific, outlined as Inland Wetlands and then put Conservation in there, you can do that. You can do it the way you do it now.

Commissioner Paskevich: Jeff, did you say, stay the course?

Commissioner Zelek: Yes.

Commissioner Paskevich: Okay, I'm for that.

Chairman Block: You mean follow the same procedures we have been doing. Well, again, that's the status quo and if that is your consensus no further action is necessary, we will just keep proceeding.

Commissioner Krawiec: If we stay the course, can we still make recommendations.

Chairman Block: Yes, you always have been able, make the motion, then we vote on it and then assign somebody to represent us.

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

Chairman Block: We've already tabled it under Section 5.

C. Community Liter Pick-Up

Commissioner Clark: We have scheduled our next community liter pick-up day for Saturday, October 18. I don't know that we have a time, I'm guessing we're going to start at 9:00 again, but we'll get that out. I'm hoping to get a facebook page started to get out the information because we pretty much have no budget and last time we went letters out and posters and we don't have money for that. I think social media will take care of the advertising.

D. New Initiative – Vernal Pools

Commissioner Zelek: Nothing new

E. Invasive Plants

Commissioner Clark: I'm going to tread lightly here and I'm glad the Town Attorney is present. I have a statement to make about invasive plants but it has to do with communications reports A. Is it appropriate to say it now. I can talk about it under A.

VIII. EXECUTIVE SESSION

A. Pending Litigation

Held Previously

IX. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Each Speaker Limited to two minutes)

Rose Lyons, 46 Elton Drive: There are people in the audience tonight who have never been to these meetings before and just a thought that maybe before the public participation begins, maybe the Chairman or someone could just mention that there is no dialogue. I know the lady that was here wanted to know how she was going to get answers to her questions. To be honest, I don't know because there is no dialogue and whether there is any communication afterwards, I not aware of that fact. As far as the community liter pick-up, you could put it on the town's web site, it was last time and I think Mike Fox is on top of that. The microphones, it's nice to hear what you are saying, but when you turn your head like this, we can't hear what is being said. I know there is a lot of discussion of what can be said here and can't be said here, and just a thought in my head, the Commissioners as well have to be careful what they say outside of this room, on Facebook, and to the general public. I'm sure everybody here tries to keep their feelings neutral, but sometimes they come out and I think that could be a very dangerous, slippery slope if something were to come before the Commission and you've made public comments. Just my thoughts, thank you.

John Bachand, 56 Maple Hill Avenue: Just wanted to say, I didn't mean any disrespect when I spoke a little bit out of turn, but I would like some clarification on who can say, who can speak and I thought it was the Chairman, so I took offense to the Town Attorney saying that I couldn't speak, so maybe you could address that. I'd appreciate it.

Roy Zartarian, 25 Stuart Street: Just briefly, I was kicking around inside by head, what if this Commission put together some sort of training program or orientation for work within wetlands, not something for example that DEEP is running for Commissioners, but something for the people who are actually going in and doing the work. I know Northeast Utilities has a training program for its people, and it's subcontractors. Second, we are up to 303 signatures on the petition, which means about fifty since 6:30 tonight. Thank you.

X. COMMUNICATIONS AND REPORTS

B. Mill Pond Park – Tennis Courts

Chairman Block: Chris, can you report how this came to our attention?

Chris Greenlaw: Yes, first I want to apologize for Mill Pond Park tennis courts, I thought if we identified through tennis courts we would have an idea of the area of the park that we were talking about and we can expand upon our descriptions and that is something on our very long list as you heard the Chairman and I have discussed and we are listening and we're going to work on that.

It was brought to my attention, as you know my position as an engineer I also wear the wetland hat, so I was called to the Manager's office to discuss the fact that he had been brought to the attention of the town from a resident, and I believe it was through the Environmental Quality Commission. There was a concern over fill, and I dispatched staff to discern the location of the act, and it was found that there was fill in the location of the tennis courts, related to the tennis courts, so when the maintain the courts, clean the courts there is a bit of fill and there is material. So we had two things, we had like anything else we had to learn about, where did this material come from, and we talked with staff. We had to determine if it was in the upland review, and it was, the Manager asked me, once you investigate this and get all your information I want you to get back in touch with Mr. Fox, the individual who brought it to our attention. I called Mr. Fox and I let him know the particulars of what we found and the why and what we were going to do and I told him the methods by

which we were going to do this and I mentioned general permit and I have received no further correspondence. So the Manager and the Superintendent of Parks and Rec and myself, we gathered and we met and I informed them of the fact that the activity which was a maintenance activity and I will say for the record, this was done with no intent or malice to harm Mill Pond Park. I had asked how this was derived and he said he had asked staff, this is the Park Superintendent, that as part of the maintenance to the court it had been a practice for well over a decade or more that these, the clay material was placed in this area. The sweepings to expedite their maintenance. This individual who had done it, and taught the next individual was not recognized, there was no finite lines anywhere in town that designates wetlands. So, I informed them, they asked, what are you doing to do, or what would you recommend that you do, and as you would imagine Mill Pond Park, being a hot button, I said, you act, and you can act under your general permit one. So I asked the Superintendent of Parks and Rec after I informed him of the activity and talked with him as far as remediation action, I said, because of this activity, I want a formal memo from you pursuant to our conversation of the fact that we had this discussion, we discussed remediation, we discussed the mechanism for remediation and he has very capable staff. He has hard working staff and that staff, I had talked to him about the staff that he has to work with my staff as far as recommending, what do we do? I'm going to show you pictures, and this is haphazard by no means, this was a swift action under general permit one, which I sent to all of you which does, this is a mechanism of the state which is the right to maintain in water courses, in wetland areas in which we have a rolling permit, and I'm going to pass out the photos of the remediation effort. So recognizing that this was wrong, and educating those people and telling them that this practice is not condoned nor is it appropriate, I want you do know this wasn't done with malice, this was done because there aren't those finite lines in the woods with placards that say, this is a buffer area, or wetland area. So staff, park and rec staff removed the material, they are in the process of seeding, they are putting down a fabric, and that should be, as of today, I went out to see the measures and to the extent that they are trying to rectify the situation. I want to let you know that when I told them about general permit one, and that it should be remediated, they stopped the project they were on to act immediately and so tonight I can report to you, these are the measures by which they are restoring the area and by which I believe, I'm not sure if they are complete, but that is the update as of today.

Commissioner Zelek: The screenings, what's their composition? Are they toxic, any threat from those screens to the wetlands?

Chris Greenlaw: I'm being told one of the elements of this park is that we have these clay courts. I'm being told it was clay, I'm being told it was there possibly longer than decades. I was not informed of any MSDS on them, but that's what I'm being told the material was, and possibly some grass clippings.

Commissioner Clark: Perhaps I exceeded my bounds, but I was in Mill Pond Park and I think after it was reported and before all this was cleaned up, and what I wanted to speak about on invasive plants, is that it was not an upland review area. The material I saw was very fresh, it looked like stone dust, gray stone dust, as one specific item and right next to that was brown dusty material. It was right up against the wetlands because it was right up against the cat tails, and the reason that I want to speak is that cat tails indicate that you have a pristine environment, when fragmites move in, it's because the environment has been degraded. That looks, it's remediation, but I think what was going on, isn't really shown in the photo that you see, and there is also, to put a finer point on it, connecting this to the liter, right next to the area that they were working in was a chair, in the wetlands, that despite all that effort, I don't know if that chair is still there, but if they really care about cleaning things up, they might pick up the chair at the same time they were hauling materials out of there, so what I see is

disturbing to me, and we require an applicant to use silt fence extensively, but I don't know if that was part of the plan, but certainly at the time that I walked by I did not see any silt fence and I saw materials that would be washed away with the next rain right next to cat tails.

Chris Greenlaw: Just for the record, the area was identified as buffer by the town official map, now this is a very common refrain, I am not a soil scientist, but I will tell you, in accordance with our map, it's upland review. It's not to say, we know this, the world is an evolving place and I'm not going to argue with you that one of the identifiers is cat tails and if we were doing federal wetlands and we would look at excess water in the area, hydrological soil groove, the soils themselves, not to argue with the fact that it could be wetlands, I'm just telling you that in accordance with our mapping, the good news is, I'm not making any excuses, I'm saying I met with the Superintendent I let him know, with the Manager, that this was not appropriate. He said that this was a practice in this area that had been conducted before he got there. The important thing is one of the things that we do with these regs in reach out, not only to the public but to our own people as far as education, and there are a lot of things we're learning. It very well could be wetlands, but we do have a general permit. This general permit is in accordance with the law, it allows us to go in and do that maintenance. The parks and rec have answered the call. You have come in before with complaints to clean up things and they are doing that, and along with their tasks.....have they not?

Commissioner Clark: No they are not. Deb and I visited Starr Park a couple of weeks ago, and we reported a hockey goal in Starr Pond last May, and it was still there, so I don't believe they are concerned and there are also piles of grass clippings, apparently done by residents right at the edge of the downflow of Starr Park. So, the hockey goal, it's a real obvious thing, but when I saw the chair next to the area, I mean, it was an arm chair sitting in the wetlands, within complete view of where they were working, I would really like to see improvement.

Commissioner Casasanta: Just for clarification, do we know just how much fill is in that area? Was all the fill removed or was it just leveled and graded and seeded? If you are talking about decades of fill, it's probably a substantial amount. I don't know if it's going to be tons.

Chairman Block: As I understand it, what they are talking about is sweepings of clay dust off of the court, but the issue is, over the time, it's more a question of inches. It's more than it was sealing the surface more than it was adding material.

Commissioner Zelek: So Mr. Chair, have you visited the area?

Chairman Block: No, it was only brought to my attention this past week.

Commissioner Zelek: Because you are talking about it like it is just inches, I did visit the area, I think it's a lot more than just inches, it's quite disturbing to see, I think some of the remediation actions that were performed, probably in good faith, did a little more damage because some of the fill had been pushed further into the wetlands, so I just wanted to ask staff if there is going to be any other action taken in there to clean that up.

Chris Greenlaw: I purposely went today to show an update, because the amount of material seemed extensive and that is demonstrated by the amount of fabric and seed and restoration effort that you see in the photo, so my question to the Commissioner was, when were you out there, were you out there today, that's why I purposely took that photo today to bring you real time, where we are. I have a couple of things to bring back to them from what I'm hearing from the Commission, there's a chair as well and any other debris.

Commissioner Zelek: I was there September 8th. Follow up question, did we have an expert telling us that none of this is detrimental or toxic.

Chairman Block: Again, from my understanding as to tennis courts, clay, I'm an ignorant if there are any additives to the mineral clay that might be contaminating and again, I think that is something that we can ask Parks and Rec.

Commissioner Zelek: I think it's a reasonable request to take a sample of the soil and get an expert outside of Parks and Rec.....

Chairman Block: I don't even know at this point if there is even any remaining clay to be sampled.

Commissioner Clark: Isn't it the same clay they put on the court every year?

Chairman Block: For that matter, you can get a manufacturer's statement as to what is there.

Chris Greenlaw: If it's clay, it's a derivative of the earth, I can inquire, I will inquire.

Commissioner Clark: They might use something to pack it down. Who knows?

Chairman Block: I think the question is, does the Commission want an update at the next meeting on the questions that have been raised?

Commission: Yes.

Commissioner Clark: And I for one would like to continue to monitor that area for development of fragmites in the place of the all too frequently disappearing cat tails.

Commissioner Zelek: Chris, you have mentioned several times that this was executed under general permit one. What's the date on your copy of the permit?

Chris Greenlaw: 2001.

Commissioner Zelek: April 19, 2001?

Chris Greenlaw: I think it was signed on the 19th by the Chairman of the actual permit that we discussed, probably at our meeting on the 12th, it becomes active when it is signed.

Commissioner Zelek: One thing I want to point out in this permit, and it's pretty clear. It says in here on each occasion prior to starting the work to be done, under this permit the Town Engineer shall inform the Commission in writing and make a formal presentation at the Commission's hearing. So, there was no presentation to this Commission regarding any work done under general permit number one, and so I find that a violation of this permit. According to our regulations we have two sections in our regulations, any time a permit, there's a failure to comply, it's an automatic revocation of that permit.

Chris Greenlaw: The Attorney can speak to the enabling law, but I will be specifically in our regs, regarding general permit one, there are different levels. There is the day to day operations, this was enabled by our legislature because they know thousands of miles of roads and all the districts with all their maintenance personnel, they knew that couldn't be running to DEEP for the every day operations. They would just cease, they would just stop, so they had a mechanism, they knew in their minds, the legislature knew that they would

need a mechanism for people to operate day to day operations. Otherwise, if they had to run in and get a permit for everything, things would just cease. Now, there are two levels to this. Within our regulations I certainly come in, for those CIP projects where we are improving a pipe, sometimes we do those improvements as far as maintenance on an existing pipe under general permit one, when it's more extensive, when it's altering soils, we're digging, we're replacing pipes, structure, it has a CIP element to it, most certainly, for those things that we anticipate for our maintenance, but our day to day operations, every day, DOT, our guys, our individuals in parks and rec and highway, they have mowers out there, they are running up and down, they're near wetlands or in wetlands or reaching in with flail mowers and that is done under this general permit. We have members of the general public who may still be here who has asked for this repeated maintenance and that she's requested more on paths and so on, and those are things that fall under the general maintenance that we don't report because it's part of our regular scheduled maintenance. Something like this, yes, I did come to report, but we thought of this importance, given the park, the hot button item, we wanted to show the fact that if we did something wrong, we wanted to correct it. We wanted to remediate it.

Commissioner Zelek: Okay, so you mentioned that there are general maintenance operations going on, and then we have this particular incident here with the tennis courts. How do we prevent this from happening.

Chris Greenlaw: I'm not going to lie to you, this very well could happen again, but these events, I don't want to say they are good, but we do learn from them.

Commissioner Zelek: So how do we raise awareness of the public works staff that there are upland review areas, there are wetlands, that they need to be sensitive to? We learned earlier that Northeast Utilities has a training, do we have anything like that?

Chris Greenlaw: No, and I will comment on Northeast Utilities, I've had some discussion with them, because it is our next item but they themselves are almost as big as the DEEP as far as their environmental program, and they have the resources. More directly to your questions, it's difficult for me being a peer with another department, these day to day operations are not under the orchestration of the Town Engineer, the Highway Superintendent, the Parks Superintendent, they have general foreman. We do cross paths, we do discuss projects, and certainly when we anticipate a water course maintenance, when we talk about a larger project that would require a repair of a pipe, I certainly report to this Commission, but under the general maintenance, under the general permit, there are things day to day that may happen, such as this.

Commissioner Zelek: I was almost at the point of suggesting to this Commission that permit number one be revoked because of the activities that occurred without any type of communication, presentation, to this Commission and I would be willing to forgo that revocation of this permit if I can get some type of assurance that the Town is going to implement Wetlands sensitivity training for our public works employees.

Chairman Block: I think that part of the business of us sitting as the Conservation Commission might be to investigate a source for that training, because I don't think we are capable of doing it, and then making the recommendation to the Manager that they have a in-house training for all appropriate departments. I think that might be a very good idea because of you think about the multitude of tasks they are involved and the variety of environmentally sensitive areas that they touch I think that's a pretty extensive curriculum and how and where would we get somebody capable of providing that education?

Commissioner Clark: I volunteer to call Darcy Winter who conducted our training at DEEP. She's very approachable and I can ask here if such a thing exists to educate town employees because she's the one that put on the program to educate (inaudible), I realize it is a different focus, but that's one source I can think of.

Commissioner Zelek: I don't know if it is incumbent upon this Commission to find those educators, I'm sure we can help but I think it's, if we make a recommendation to the Town, it will be upon the Town Manager to form a plan of action to address our recommendation.

Chairman Block: Well, that's all good and true but the more guidance we give as to who, what, where and how, the more likely it is that it will happen in accordance with your concerns.

Commissioner Casasanta: You completely accept that this was not intentionally done, it's just done as part of the way of the maintenance of town properties has been done. Did you speak to the head of Public Works or Parks and Rec about potentially other areas where I'm sure there's maintenance being done and there is debris being removed and what is the disposition of that, what is being done to dispose of that. Are there other areas where there could be issues similar to this in town? Maybe we can address and educate at the same time if we can find out, because I'm sure the activities at the tennis courts, at the park isn't the only maintenance Parks and Rec is doing.

Chris Greenlaw: I think your answer is an investigation after the efforts of Commissioner Clark and then reconvene and a consensus from this Commission through the Chair to the Manager because he acts as a public works director, because we are all department heads. I can appreciate the sensitivity.

Commissioner Ancona: I say we ask Mr. Till to come in and explain what happened.

Chairman Block: Do you wish to do that as an educational issue or under 14-14 do you want to issue a notice of violation?

Commissioner Ancona: I would issue it.

Commissioner Clark: I have to agree that the town should be held to the same standards as the residents. I don't think that is unfair, our actions should be educational.

Commissioner Zelek: I would actually take that a step further and say that the town should be held to a higher standard than the citizens and it should be by example.

Commissioner Clark: I think that, under the terms of our charter, as a Conservation Commission to advise make recommendations to Manager, Council, other board and commissions of the town regarding conservation and wetlands issues. Does any legislative body in this town look to us for any information. Clearly, this is one department that does not. Is there any way to change that. To make the Town Council aware of this particular issue, and any other boards that might be encouraged to look to us for guidance.

Chairman Block: If you are considering issuing a notice of violation, just for the record, because I don't think this has been established, whether or not this is in the wetlands or the upland review area and if so, which, to what degree, is it within ten feet of the upland review barrier, is it a hundred, if you are going to proceed with what, according to the regulations is an enforcement activity, let's get our pins in a row. Let's get the facts established before we

do something like that. I don't know from the discussion that we have had tonight that those factual elements of a violation are a matter of record. Please correct me if I'm wrong.

Chris Greenlaw: Mr. Chairman, I still think you are venturing into a very large gray area. There was no mal-intent here but the bigger question is, where do you go, what's your end game with this, because you have maintenance activities that are going to continue, otherwise you are going to make your Parks Department and your Public Works Department even more gun shy of answering your continued complaints to pick things up. I can't go into that pond to pick that up, because I might need a general permit, so the intent here was for those larger projects, and I think what you need to do is define, what are those larger projects, and if you certainly want to get into the realm of defining every operation I think Government is going to stop, quite honestly. I think the intent of this permit is to give them some latitude so they can conduct their work. You impose this on them, education is a great thing, and I think that's a great answer, and I think that is the avenue you should go, but if you now penalize them and revoke their permit, okay, good, give me a defined list of where I can stand and where I can't stand and what I can't clean and what I should clean and I don't think that is what you want.

Chairman Block: Again, I think we want to stand on the actions that Kathleen is going to look towards materials for an educational activity and then we are going to invite the other departments to find the time to have that education and see if we can't develop better cooperation between us and the other departments as to our goals. Is that acceptable?

Chris Greenlaw: This has happened once and we don't want it to happen again. We could re-write the permit, we can define all these lines and come up with lists of wetlands and not wetlands and confuse people, and mire down government, make more government or you can educate them, propose this plan as a consensus through the Chair to call the meeting, with the Manager, maybe with the Manager and invite him in with the public works group and say, okay, this is what we have before you, we believe you took too much latitude under the permit, we would like to educate staff, we have investigated these resources and seminars and have the Chairman meet with myself and the department heads and the manager. Propose that to him, I think at the end it's the best to propose that to him, and for the staff.

Commissioner Casasanta: My only concern, and it is a concern, and I realize that this was inadvertent, there was no intent, no malice of thought, but without some kind of statement or action from this Commission saying, this type of behavior is completely unacceptable, you're raising the level of probability that this is going to happen again in the future, saying, yeah, it's a bad thing, we shouldn't have done it, we realize this, and it's going to be something we could be addressing again in the future.

Chairman Block: I think this is a mis-interpretation of the situation. Those tennis courts have been there I think for over thirty years. The maintenance of those tennis courts have been on-going. I have asked and no one can find out when in fact the disposal of the sweepings started there. But this is not a question of anything that was ever initiated during any of our adult lifetimes. The question is that our standards of care have evolved to where what was an acceptable practice that has been maintained is now becoming something we are sensitive to, and the fact that some public works, some parks and rec foreman twenty years ago, or whatever, said, yeah when you sweep it, dump it there is not an intentional act by any of the employees that were just told to follow the same procedure, so rather than looking towards anybody having any intent, this is really, as Kathleen is proposing, an opportunity to bring the rest of the town staff up to date on the level of sensitivity that we are trying to achieve.

Commissioner Casasanta: And just to be clear Mr. Chairman, I never said there was intent, that's how I prefaced my statement, there is no intent, I don't think there was any malice of forethought that went into this, I'm more concerned that, out of carelessness, not out of intention actions, that this will happen again.

Commissioner Paskevich: I know that the level of awareness towards this incident is higher than it has ever been since these activities have been done, gone to the Town Manager, gone to the Town Engineer, gone to whomever else administers the town, the level of awareness is already there. I don't think we need to give a violation to anybody at this point. I think the education process is already started. I think staff has already incorporated their thoughts and details about wetlands and specifications, and that is going to move forward to the departments that are responsible for the maintenance of the town. I don't think we need to get into a discussion about the town employees, the department heads, the superintendent, at this point. I think we are at a high enough level now, and as the Chairman spoke to, we are evolving from what was before. I think that is where we should end it.

Chris Greenlaw: The other thing, I think you have taken this action completely wrong, and if you did, then I'm partly to blame because when I met with the Manager and the Parks and Rec superintendent and I made by findings of fact, there's also a growing season, which we are in. I truly believe we can do this under general permit one, knowing we had a growing season and we could act respectfully to this Commission, honestly, you should be looking at this differently. They did drop a project, if you told them, hey, could you do this in a month, what do you think they would have told you. This is our plan, absolutely, because they do have things to do, so if you are looking at it from that perspective, then I'm partly to blame because I truly believe we can do this under general permit one. But, respectfully, we acted and I truly believe we acted correctly to remediate the situation. I do agree with you on the education.

Commissioner Clark: Respectfully, two questions I believe raised by more than one of us, what was in the dirt, what's it made of, and how much was taken away. I think it would be nice to get those questions answered.

Chairman Block: I have that.

C. Northeast Utilities Substation Site – Garfield Street

Chris Greenlaw: The site in question I believe the question was the site down by the bus garage in which when we did paving for the Board of Ed I came before you and I prepared a permit for the paving in accordance with our property. The question that remains is the fact that this is an NU site, currently owned by NU, operated as a substation that was decommissioned. I started the perilous journey of research when I was questioned whether or not we had the right to pave this. Now the first question I had was the area that paved on the subject lot is within, there is a quarter of it within upland review and I calculated that on NU property it would be roughly 30 x 35 feet. If you do the square footage on that it equates to roughly about the area of this room, and a little bit less. The point of the matter is, NU property, Clara Eddy sold it in '33 to Connecticut Railway and Lighting and from that it went from Railway Lighting and became CL&P. The important point was is that it is still owned by NU, 2002 the substation was decommissioned. 2003 there was a site assessment done and found that PCB's were found on the property. Between 2003 and 06, soil sampling and water sampling was done. They had a federal clean-up plan and remediation. It was demonstrated to me that at no time were they required as they took out, excavated over one hundred cubic yards of materials with PCB's and recontoured the land, and monitored the land, were they required to ever have a DEEP inland wetland permit, so the state, respecting the federal, it's

presumed under the federal clean-up, weren't required, so certainly you can imagine again, unfortunately, there was an agreement between NU to give it to us for temporary use. It was believed that that agreement would allow us to pave on their property, thinking that, like many sites, would there ever be a problem to pave something that has already been previously excavated, had monitoring holes, reconfigured the work, it was never even presumed to be looked at. It was simply paved as an operation in preparation of any agreement. Some one raised the questions, it was a good questions, I still don't have an answer, quite simply seeing this iceberg of exploration, I've had contact with CL&P, I've been invited to look through their three boxes of historical clean-up plans, I was given the clean-up plan that was over 1,000 pages long, I'm looking specifically for information that they require. At the end of the day, I would prefer to apply to you for a permit, because quite frankly, they have said they are going to try to give me an addendum, a break-down, of table of contents of their permitting, which I have yet to receive, but my recommendation to the Manager is going to be, and I've spoken with Counsel that is we do anything I think in the best interest to the town, and my time, would be to apply to you for a permit to pave that 35 x 35 area even if it's NU, even if some of the attorneys may understand that operating as a site as a utility they may be exempt under PURA with their activities which could be explored. Honestly, when I add my time up at the end of the day, I'm leaning towards not going through boxes and boxes of permits from the EPA. I'm still going to wait for their tabularized contents of what's in the boxes, and receive that, but right now I'm reporting to you that there's a few things that we could do. We could simply cut off that triangular piece that was paved which is a very small portion of the parking lot. What I'm leaning towards is to request to the Manager, or recommend that we survey the area, prepare a plan, come in with a formal application, complete with L.I.D. efforts and propose that to you, or see spending an enormous amount of time to look for any possible exemption on this NU property, and that is currently where I am. I have a strong lean towards reporting, preferably, and in my case, recommendation would be to apply for an application from this Commission.

Commissioner Ancona: I asked that this be put on the agenda, and number one, we speak of the property as Northeast Utilities substation, and that's what it is on the agenda as, but am I mistaken to understand that it is really the impound lot for the Town of Newington?

Chairman Block: No, you've got it backwards. The original use was for a transformer station, and during that use, it became grossly polluted. The, what happens is that EPA and DEEP required them to clean it up, supposedly they have completed that, although both of those authorities have refused to sign off on the effort. It's in limbo. During that period of time the town went to them and said, since it is now vacant, can we use it as additional impound. They, according to what Chris is saying, said sure, but somewhere along the line it needs to be paved. When I heard of that I said, good, because I wanted a dividing line between the prior use and the future use, so the Town has some protection against further liability. Now the question is, that this corner of the property is in the upland review and.....

Commissioner Ancona: My first question, is it an impound lot or not?

Chairman Block: It's intended to be.

Commissioner Ancona: It's under a new possessory interest by the town.

Chairman Block: Under license I guess is the best way to describe it.

Commissioner Ancona: But they have a possessory interest in the property now.

Chairman Block: Maybe use of it, I don't know.

Commissioner Ancona: Well, that would be in possession.

Commissioner Ancona: So it's a new use. Now you are bringing up cutting off a corner of the property because of wetland review. Hypothetically, if an applicant came in here and said, the Birch Street guy, well, you know what, I'm going to deed off the part of my property that is in the upland review, is he no longer subject to this Commission?

Chris Greenlaw: Deed off property versus deed off the area, remember, you are only required to have a permit for an area of soil alteration as it relates to the inland wetlands, so deeded off, the property is not going to help you, it would be the use, and when I say use, the alteration of that soil. So one of the proposals would be well, the intended use, now remember, CL&P was asking of us to pave it, they still own it. As far as the use, they said, we want you to pave it. So, as part of one of the solutions would be, we could cut off that corner and not use that corner and therefore we're not violating, we don't have any soil alteration or activity even within the upland review. I think though the proven alternative is to apply for an application.

Commissioner Ancona: I think it is too, and I will just say for the record, I am incredulous that some of the conduct, not you Mr. Greenlaw, you have been wonderful, that some of the conduct by the town and maybe it's the administration, I don't know, but it seems like that don't have to comport with the laws that the rest of us do, and I don't think that is fair.

Chris Greenlaw: For the record, I just want the Commission to remember that when the Board of Ed approached me and we did paving additionally around their building, and it was part of the CIP effort, and we were providing design support, and when we recognized that paving was within the upland review, we came in, we have a permit, so these are the types of things you can imagine, timing is horrible here, you have something that was operated as a substation, they decommissioned it, had PCB's on the property, they had a federal clean-up plan, and then for them to say as part of the agreement, hey, we want you to pave this, we don't want the soil, we spent all this money, and I want to clarify for the record, the DEEP requirement was water monitoring, it wasn't an inland wetland permit, so it's very easy to fall into that trap, well, they are dealing on the federal level, so state is preempted, and therefore the local, but now, we'll get into this, and looking at the amount of time that we are trying to prove preemption, I think the prudent alternative, the prudent thing for my time would be to apply to the Commission for an application for this use, for us in possession of their property, if that is the proper term.

Commissioner Zelek: So who ordered this paved?

Chris Greenlaw: NU said you can have use of the property, you can utilize this property but we want you to pave it.

Commissioner Zelek: Okay, but then who in the town approved the monies to pave that, and ordered it to be paved.

Chris Greenlaw: Not sure which account it came out of, because we are dealing with a request from the Police, it's being expedited by Public Works, this is something that didn't even require a plan. They are taking something that already has stone on it, they replaced the gravel and literally you just had to pave on top of that.

Commissioner Zelek: But somebody had to order that work to take place, somebody has to sign off on it. Who did that? Who said on the papers, I approve this? Who approved it?

Chris Greenlaw: I don't have that answer for you. I do not have that answer. I can't tell you what account it was out off, I can't tell you if the police paid for it or if the highway services has an account.

Commissioner Ancona: Do you know if this was TPZ approved? Was there an 8-24 on this?

Attorney Boorman: No 8-24 was done.

Commissioner Paskevich: What is the purpose of the pavement?

Chairman Block: Well, if they are going to be parking cars that are impounded, to prevent the oils and contaminated fluids from getting into the ground water.

Commissioner Paskevich: So is there an application in town for parking there?

Chairman Block: No, apparently.....

Commissioner Paskevich: So what is the use of the pavement going to be?

Chairman Block: To house police impounded vehicles

Commissioner Paskevich: Okay, so what's the issue? I don't see the issue here.

Chairman Block: The issue is that some change to the area has been done without a review and permit issued for the upland review area. I'll tell you, one of the issues that I have in my mind is that after this property has been extensively manufactured in accordance with the EPA requirements, whether by not by soil definition or any other standard it is truly upland, it still has any bearing upon the wetlands at this point. I think if someone came in with a map amendment, based on what has been done, it would be hard pressed to have jurisdiction.

Commissioner Paskevich: I agree, I'm looking at it from public safety.

Chris Greenlaw: And I think the concern here is because it's an impound area, it's in the upland review area, so therefore there could be runoff from impounded cars, the cars that go into the impound could be stolen, wrecks, etc., so there is a chance.....

Chris Greenlaw: The trump card is the fact, regardless of these findings, we want to impose the full extent of the local inland wetland law, we'll certainly explore that, because honestly, that's probably the best way to go, giving you the opportunity to weigh in on a plan for the proposed use for this property.

Attorney Boorman: Can I just make a recommendation, in light of the hour and circling around here. Chris is able to do an investigation, he's got a bunch of material and he's not quite done yet. I would tell you, he's discussed the matter with me and I told him to continue to research the matter and find out from Northeast Utilities as to the federal preemption issue because that would be a valid question that would come to my office, if indeed this goes any further. Second, the issue that would be whether NU has to come to you for anything. Utilities do have an exemption for coming to locals, and this may fall under it, it may not. Finally if you determine that we are going to cut off this 35 feet and cut off this inland review area, you are going to be hard pressed to have them come in anyway and do anything in front of you. I would suggest you think about this until your next meeting. I've heard people talking about L.I.D. issues and in terms of making a recommendation that might protect the

wetland, you can do that. But again, it's up to you. You can't do anything tonight because Chris isn't done yet. You need to wait until your material comes in before a decision is made.

Commissioner Ancona: Did anyone come to ask you if this was a review area?

Chris Greenlaw: It wasn't until recently.

Commissioner Zelek: So Attorney Boorman, you have been commenting on this. Were you asked by a town official to sit in on this particular item?

Attorney Boorman: No, just a few minutes ago, when I was asked.

Commissioner Casasanta: My concern, even though issues we're addressing, about the decisions made to undertake this action are very important, I think the bigger issue here is the nature of the use of that parcel, and I think it's something that we as a Commission should take a good hard look at because the substances that are going to be present in that impound area as other people have mentioned, the anti-freeze, the oil, the gasoline are some of the most toxic bad substances that you will ever want to get into a wetland, so if this is going to be used for that type of activity, and it has a potential impact on the wetlands, I think it's contingent on this Commission to make sure that that activity is not going to impact the nearby wetlands. We can do that at a later date. Right now we're in a fact finding type of posture, so I'm just saying, for our future discussions, I think it's something we should take a long hard look at.

Commissioner Casasanta moved to table the Northwest Utilities substation site until the next meeting. The motion was seconded by Commissioner Sadil. The vote was unanimously in favor of the motion, with seven voting YEA.

XI. ADJOURNMENT

Commissioner Sadil moved to adjourn the meeting. The motion was seconded by Commissioner Clark. The meeting was adjourned at 11:17 p.m.

Respectfully submitted,


Ndrine Addis,
Temporary Recording Secretary